

RESOLUTION No. 2008-36-723-Z-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY PLAYA PLAZA, LLC, FOR PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF NORTHWEST 27TH AVENUE, SOUTH OF NORTHWEST 199TH STREET AND NORTH OF NORTHWEST 191ST STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-124 OF THE ZONING CODE TO ALLOW A COMMERCIAL DEVELOPMENT ON THREE OUTPARCELS WITH 116 PARKING SPACES WHERE 146 PARKING SPACES ARE REQUIRED; PROVIDING FOR CONDITIONS; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Playa Plaza, LLC ("Applicant"), owns certain property located on the East side of Northwest 27th Avenue, South of Northwest 199th Street and North of Northwest 191st Street, more particularly described on Exhibit "A" attached hereto ("Property"), and

WHEREAS, the Applicant seeks a non-use variance of section 33-124 of the Zoning Code to allow a commercial development on three out parcels with 116 parking spaces where 146 parking spaces are required, and

WHEREAS, the City Council held a public hearing on the application on March 5, 2008, and

WHEREAS, the City's Planning & Zoning staff has made a determination that the application is consistent with the Comprehensive Development Master Plan, and

WHEREAS, the City's Planning & Zoning staff recommends approval of the application subject to certain conditions, and

WHEREAS, the City Council considered the testimony of the Applicant, if any, and

WHEREAS, the City Council also considered the testimony of the City's Planning & Zoning staff, and the Staff Report attached hereto as Exhibit "B," incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. APPROVAL: The City Council of the City of Miami Gardens, hereby approves the application submitted by the Applicant a non-use variance of section 33-124 of the Zoning Code to allow a commercial development on three out parcels with 116 parking spaces where 146 parking spaces are required, subject to the conditions outlined in the attached Declaration of Restrictive Covenants.


Section 3. DECLARATION OF RESTRICTIVE COVENANTS: The City Council of the City of Miami Gardens, Florida, hereby approves the Declaration of Restrictive Covenants attached hereto as Exhibit "C."

Section 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON MARCH 5, 2008.

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK


SHIRLEY GIBSON, MAYOR

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Bratton
SECONDED BY: Councilman Campbell

VOTE: 5-1

Mayor Shirley Gibson	<u> x </u> (Yes)	<u> </u> (No)
Vice Mayor Barbara Watson	<u> x </u> (Yes)	<u> </u> (No)
Councilman Melvin L. Bratton	<u> x </u> (Yes)	<u> </u> (No)
Councilman Aaron Campbell	<u> x </u> (Yes)	<u> </u> (No)
Councilwoman Sharon Pritchett	<u> </u> (Yes)	<u> x </u> (No)
Councilman André Williams	<u> x </u> (Yes)	<u> </u> (No)

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City of Miami Gardens

1515 NW 167th Street Suite 200
Miami Gardens, Florida 33169



Mayor Shirley Gibson
Vice-Mayor Barbara Watson
Councilman Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilman André Williams

Agenda Cover Page – Playa Plaza, LLC **PH-2007-0019**

Date: March 5b. 6, 2008

Fiscal Impact: No X Yes ☐

(If yes, explain in Staff Summary)

Funding Source:

Contract/P.O. Requirement: Yes ☐ No ☐

Sponsor Name/Department: Development Services Director via City Manager

Public hearing X

Ordinance ☐

1st Reading ☐

Advertising requirement: Yes X No ☐

Quasi-Judicial ☐

Resolution X

2nd Reading ☐

RESOLUTION No. 2008-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY PLAYA PLAZA, LLC, FOR PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF NORTHWEST 27TH AVENUE, SOUTH OF NORTHWEST 199TH STREET AND NORTH OF NORTHWEST 191ST STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FOR A NON-USE VARIANCE OF SECTION 33-124 OF THE ZONING CODE TO ALLOW A COMMERCIAL DEVELOPMENT ON THREE OUTPARCELS WITH 116 PARKING SPACES WHERE 146 PARKING SPACES ARE REQUIRED; PROVIDING FOR CONDITIONS; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

ATTACHMENTS:

RESOLUTION

EXHIBIT "A" LEGAL DESCRIPTION

EXHIBIT "C" DECLARATION OF RESTRICTIVE COVENANTS

EXHIBIT "B" STAFF RECOMMENDATION

EXHIBIT "A" LEGAL DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING IN A PORTION OF TRACTS 33, 34, 35, 36, 37, 38, 39 AND 40 OF "MIAMI GARDENS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 96 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LYING IN SECTION 3, TOWNSHIP 52 SOUTH, RANGE 41 EAST OF THE TALLAHASSEE BASE MERIDIAN OF SAID MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING FOR REFERENCE AT THE NORTHWEST CORNER OF SAID SECTION 3; THENCE, BEARING SOUTH 02°46'26" EAST, ALONG THE WEST LINE OF SAID SECTION 3, A DISTANCE OF 1461.02 FEET TO A POINT; THENCE, LEAVING SAID WEST LINE, BEARING NORTH 87°14'45" EAST, A DISTANCE OF 66.00 FEET TO A POINT LYING ON THE EASTERLY RIGHT OF WAY LINE OF N.W. 27TH AVENUE, SAID POINT ALSO BEING THE POINT AND PLACE OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE, LEAVING SAID RIGHT OF WAY LINE, CONTINUE BEARING NORTH 87°14'45" EAST, A DISTANCE OF 1,113.89 FEET TO A POINT; THENCE, BEARING SOUTH 02°45'15" EAST ALONG SAID WESTERLY LINE, A DISTANCE OF 738.45 FEET TO A POINT ON THE WESTERLY LINE OF TRACT D, DOLPHIN CENTER STADIUM SITE, PLAT BOOK 129, PAGE 91, PUBLIC RECORDS OF DADE COUNTY, FLORIDA; THENCE, LEAVING SAID WESTERLY LINE, BEARING SOUTH 87°14'37" WEST, A DISTANCE OF 504.45 FEET TO A POINT; THENCE, BEARING NORTH 87°47'25" WEST, A DISTANCE OF 125.99 FEET TO A POINT; THENCE, BEARING SOUTH 87°14'13" WEST, A DISTANCE OF 484.42 FEET TO A POINT ON AFORESAID EASTERLY RIGHT OF WAY LINE; THENCE, ALONG SAID EASTERLY RIGHT OF WAY LINE, BEARING NORTH 02°46'26" WEST, A DISTANCE OF 721.09 FEET TO THE POINT OF BEGINNING. SAID LAND SITUATE LYING AND BEING IN THE CITY OF MIAMI GARDENS, MIAMI-DADE COUNTY, FLORIDA, AND CONTAIN AN AREA OF 812,948 SQUARE FEET OR 18.6627 ACRES, MORE OR LESS.

EXHIBIT "C"
DECLARATION OF
RESTRICTIVE COVENANTS

Return to: (enclose self-addressed stamped envelope)

Name: Ronetta Taylor, City Clerk

Address:

City of Miami Gardens
1515-200 N.W. 167th Street
Miami Gardens, Florida 33169

This Instrument Prepared by:

Sonja K. Dickens, Esquire
Arnstein & Lehr, LLP
200 East Las Olas Blvd., Suite 1700
Fort Lauderdale, Florida 33301

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SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIONS

WHEREAS, Playa Plaza, LLC ("Applicant") owns certain property located on the East side of Northwest 27th Avenue, South of Northwest 199th Street and North of Northwest 191st Street ("Property"), more particularly described on Exhibit "A," attached hereto, and

WHEREAS, the Applicant filed an Application with the City of Miami Gardens for a non-use variance of section 33-124 of the Zoning Code to allow a commercial development on three out parcels with 116 parking spaces where 146 parking spaces are required.

IN ORDER TO ASSURE the City of Miami Gardens that the representations made by the Applicant will be abided by, the Applicant, subject only to conditions contained herein, freely, voluntarily and without duress, makes the following Declaration of Restrictions covering and running with the Property:

1. **Submitted Plans.** That the parking of the subject property be developed substantially in accordance with the plans submitted, labeled "Playa Plaza City of Miami Gardens, Master Site Development Plan", as prepared by Kimberly-Horn and Associates, consisting of sheet C-102, dated revised 01-22-08.

2. **ASPR Approval.** That the Applicant submit and obtain Administrative Site Plan Review approval from the City for the development of each out parcel prior to issuance of building permit.
3. **Unity of Title.** The Applicant shall file a Unity of Title in the Public Records of Miami-Dade County, meeting the approval of the City Attorney, and prior to issuance of building permits on the elderly building. Such Unity of Title shall continue on record unless a Final Plat is recorded for the development of which individual platted tracts may be released from the Unity of Title. Platted tracts may be released only when determined by the Planning and Zoning Department that the tract is in compliance with applicable zoning regulations at the time. Request for release shall be made in writing to the Planning and Zoning Department and may be released administratively by the Director of Planning and Zoning.
4. **City Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.
5. **Covenant Running With The Land.** This Declaration on the part of the Applicant shall constitute a covenant running with the land and shall remain in full force and effect and be binding upon the Applicant, and his heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.
6. **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming from the date this Declaration is recorded. This Declaration shall be in effect for a period of thirty (30) years from the date of recordation in the public records of Miami-Dade County, Florida, after which time it shall be automatically extended for periods of ten (10) years. This Declaration may be modified, amended or released as to the Property or any portion thereof by a written instrument executed by the then Applicant(s) of the Property, and applicable mortgagees, if any, provided that same is approved by the City Council after public hearing. In such event, the Mayor or City Manager shall execute a written instrument suitable for recordation acknowledging such modification, amendment or release.
7. **Modification, Amendment, Release.** This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion

thereof, by a written instrument executed by the, then, owner(s) of all of the Property, including joinders of all mortgagees, if any, provided that the same is also approved by the City, or other procedure permitted under the City's Code, whichever by law has jurisdiction over such matters, after public hearing.

8. **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may judge to be reasonable for attorney fees. This enforcement provision shall be in addition to any other remedies available at law or in equity. Jurisdiction shall be proper in Miami-Dade County.
9. **Authorization for Miami Gardens to Withhold Permits and Inspections.** In the event the terms of this Declaration are not complied with, in addition to any other remedies available, the City is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.
10. **Executed Copy to be provided to the City. Executed Copy to be provided to the City Clerk.** The Applicant shall be fully responsible for providing to the City Clerk an original and fully executed copy of the Declaration of Restrictions within thirty (30) days of the approval of this request by the City Council, unless an appeal is filed or otherwise the Director, for good cause shown, grants a time extension. If this is not accomplished, the approval shall become null and void. If circumstances prevent the Applicant from complying with this timeframe condition, the Applicant may request, in writing, an extension of said thirty-day timeframe in writing to the Development Services Director, who is authorized to take such action upon the request to approve, disapprove or approve with conditions such request.
11. **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
12. **Recording.** The City, at Applicant's expense following the approval of the same by the City of Miami Gardens, shall file this Declaration of record in the Public Records of Miami-Dade County, Florida.
13. **Acceptance of Declaration.** Applicant acknowledges that acceptance of this Declaration does not obligate the City in any manner, nor does it entitle Applicant to a favorable recommendation or approval of any application, zoning or otherwise, and the City Council retains its full power and authority to deny each such application in whole or in part, and to decline to accept any conveyance.

14. **Applicant.** The term Applicant shall include the Applicant, and its heirs, successors and assigns.
15. **Waiver.** Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by any party shall not release or discharge such party from its obligations hereunder. No delay or omission by any party to exercise its rights accruing upon any noncompliance or failure of performance by any party shall impair any such right or be construed to be a waiver thereof. A waiver by any party hereto of any of the covenants, conditions or agreements to be performed by any other party shall not be construed to be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.
16. **Severability.** All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or agreement to persons, entities or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.
17. **Entire Agreement.** This Agreement and the exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement and exhibits supersede any prior correspondence, memoranda or agreements in total hereto.
18. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, Applicant has executed this Declaration.

Print Name: _____

Print Name: _____

Print Name: _____

Print Name: _____

BY ITS:
PRESIDENT

Signature

Print Name

Date

ACCEPTANCE

The City of Miami Gardens, hereby accepts this Declaration of Restrictions
hereby made by _____.

Attest:

CITY OF MIAMI GARDENS, FLORIDA

City Clerk

By: _____
Mayor Shirley S. Gibson

Date: _____

EXHIBIT "B"
STAFF RECOMMENDATION

STAFF RECOMMENDATION PH-2007-000019
Public Hearing for Playa Plaza, LLC

Applicant: Playa Plaza, LLC
Agent: Peter J. Van Rens, Kimberly Horn and Associates
Location: South of N.W 199 Street east side of N.W. 27 Avenue
Land Area: 18.6 acres
Future Land Use: Commerce
Existing Zoning: BU-2, Business

1. Requested Action(s): NON-USE VARIANCE of Section 33-124 to allow 116 parking spaces where 146 parking spaces are required; in the BU-2 district.

RECOMMENDATION:

Recommend approval of the Resolution subject to the following conditions:

1. Submitted Plans: That the parking of the subject property be developed substantially in accordance with the plans submitted, labeled "Playa Plaza City of Miami Gardens, Master Site Development Plan", as prepared by Kimberly-Horn and Associates, consisting of sheet C-102, dated revised 01-22-08.
2. ASPR approval. That the applicant submit and obtain Administrative Site Plan Review approval from the City for the development of each out parcel prior to issuance of building permit.
3. Unity of Title. That a Unity of Title be recorded for proposed Tracts B, C, D of the "Home Depot Pro Player" plat prior to ASPR approval of any of the development tracts.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning District	Existing Use	Future Land Use Map
Site	BU-2, Special Business	Vacant	Commerce
North	BU-2, Special Business	Vacant	Commerce
South	BU-2, Special Business	Vacant	Commerce
East	BU-2, Special Business	Vacant	Commerce
West	BU-1A, Limited Business	Commercial retail shopping center	Commerce

The subject property is a 4.1 acre parcel of the larger 18.66 acre property. The subject property is proposed as three (3) out parcels slated for commercial development consisting of a combination of restaurant, retail and bank uses. The subject property is being developed in conjunction with the proposed Home Depot that will be developed on the property directly to the

east. The properties immediately adjacent are vacant, however, the subject property is part and parcel to the existing Walmart and the proposed Home Depot.

Zoning History

The subject property is party to a Restrictive Covenants and Easement Agreement (see attachments) with the Home Depot site, which encumbers the property for among other things, the provision of sixty one (61) parking spaces to be utilized by Home Depot for Home Depot to comply with its' parking requirements. This Agreement was accepted by the City in the approval of the Administrative Site Plan Review approval of the Home Depot development plans.

The subject property is also subject of Resolution No. Z-84-77, Resolution No. Z-210-85, Resolution No. Z-211-85, and Resolution No. CZAB-1-02, of which entailed actions of district boundary changes, a Development of Regional Impact Order, and various variances. These Resolutions are not directly affected by the applicant's request for a non-use variance of parking requirements.

Project Background/Information

The applicant is proposing the development of three (3) out parcels that are part of the overall 18.6 acre property. Out parcel "A" consists of 1.66 acres and is proposed to be developed with retail/restaurant uses. Out parcel "B" consists of 1.37 acres and is proposed to be developed with a bank building. Out parcel "C" consists of 1.08 acres and is proposed to be developed with a restaurant use.

The total 4.1 acre parcel is subject to a Restrictive Covenant and Easement Agreement which requires, among other provisions, that sixty one (61) parking spaces be provided for the use of the new Home Depot directly being developed on the parcel to east.

A total of 179 parking spaces are being provided on the three (3) out parcels where only 146 parking spaces are required by Code. However, of the 179 parking spaces being provided sixty one (61) parking spaces are for awarded towards the Home Depot allowing Home Depot to comply with their parking requirements, leaving only 118 parking spaces towards the required 146 parking spaces for the out parcels. The result is that the out parcel will be twenty eight (28) parking spaces short of meeting its' parking required by Code.

Consistency with City's Comprehensive Development Master Plan (CDMP)

Paragraph number 3 of the Statement of Legislative Intent in the Comprehensive Development Master Plan states as follows:

"The City Council recognizes that any application for development approval may bring into conflict and necessitate a choice between different goals, objectives, policies, priorities, and provisions of the Plan. While it is the intent of the City Council that the Future Land Use Element be afforded a high priority, other

elements must be taken into consideration given the City Council's responsibility to provide for the multitude of needs of the City's growing and diverse community. Recognizing that the City Council and City agencies will be required to balance competing goals, objectives, and policies of this Plan, the primary intention of the Plan is to protect the public health, safety and welfare."

The subject property is designated Commercial on the adopted 2006-2016 Land Use Plan (LUP) Map of the Future Land Use Element (FLUE) of the Comprehensive Development Master Plan (CDMP) of the City of Miami Gardens.

Objective 1.3, the "Commerce" Land Use Designation states:

"The Commerce designation is intended for planned urban commercial, urban industrial, urban cultural and economic hubs. Commerce area shall include existing and planned activity centers that are primarily located along the City's three major arterial roadway corridors."

Conclusion:

The three (3) out parcels are proposed as a planned urban commercial development occurring in conjunction with the planned Home Depot development. The property is located with direct access from N.W. 27 Avenue, one of the City's major arterial roadways. The development is consistent with the goals, objectives, and policies of the CDMP.

Zoning Criteria and Analysis

Pursuant to Section 33-311(A)(4)(b) Non-Use Variance Criteria, states:

"The City Council, upon appeal or direct application in specific cases, shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing that the request maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, will be otherwise compatible with the surrounding land uses, and would not be detrimental to the community. No showing of necessary hardship to the land is required."

In reviewing the development plans for the overall 18.6 acre property consideration was given to the parking requirements of the Home Depot use which is required to provide parking at a ratio of one (1) parking space for every two hundred fifty (250) square feet of building area. An analysis of the square footage indicates that the Garden Center of the Home Depot building account for 34,643 square feet of the total 139,529 square feet of building area. The 34,643 square feet of building area for the Garden Center and vestibules requires 139 parking spaces. The Home Depot is deficient sixty one (61) parking spaces for compliance with the Code, which equates to 15, 250 square feet of floor area (44.0%).

The overall development of the Home Depot and the commercial development on the three (3) out parcels will be deficient a total of twenty eight (28) parking spaces. The 28 parking spaces equates to 7,000 square feet of building area. It would be fair to assume that the Garden Center is a specialty activity and does, by necessity, require the storage and stocking of larger building materials, foliage, landscape materials, and other larger items as compared to the main retail building. That area of storage and stock could equate to the 7,000 square feet and such negate the required 28 parking spaces that are deficient. That would conclude that the Garden Center would not require as many parking spaces as determined by the strict application of the parking ratio of one (1) parking space for every two hundred fifty (250) square feet of building area.

In addition, the "Shared Use Parking Study" as prepared by Kimley-Horn and Associates for Playa Plaza (see attachment) concludes that the based on the Urban Land Institute (ULI) methodology on shared parking based on the proposed uses of the Home Depot and the proposed commercial development on the three (3) out parcels would require 663 parking spaces, whereas, the combined parking being provided is 676 parking spaces. Utilizing this shared parking study, the development would have thirteen spaces in excess of what would be typically required.

Conclusion:

Based on the review and analysis of the parking requirements and the nature of the Home Depot use as it applies to the Garden Center, and taking into account the "Shared Use Parking Study" the Applicant's request for the parking variance does maintain the basic intent of the zoning regulations and not detrimental to the community as required in the criteria set forth in Section 33-311(A)(4)(b).

ADDITIONAL INFORMATION

General: Concurrency determinations are not finalized during the zoning approval process.

Drainage/Water Management: Per code requirements, all stormwater runoff must be retained on site utilizing properly designed infiltration or seepage type systems. Drainage must be provided for the 5-year storm event with full on-site retention of a 25-year/3-day storm. Pollution control devices shall be required at all drainage inlet structures. Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County. Additionally, a Surface Water Management General Permit from the Department of Environmental Resources Management (DERM) would be required for the construction and operation of the required surface water management.

Tree Removal: Section 24-49 of the Code requires the preservation of any tree resources. Pursuant to Section 18A-5, a DERM tree removal permit meeting the requirements of Section 24-49, would be required prior to the relocation or removal of trees or specimen trees on the site. The Applicant is advised to contact DERM for permitting procedures and requirements prior to any development of site and landscaping plans.

Traffic Circulation: The subject property has direct access from N.W. 27 Ave. The applicant has provided a "Shared Use Parking Study" with analysis of the parking requirements. (see attachment). The proposed uses of the property are in compliance with the zoning regulations and the approved plat. A traffic generation study was not required in the analysis of the applicant's variance request.

Public Notification/Comments

In accordance with the Zoning Code, notification of the applicant's requests were mailed to property owners within five-hundred (500) feet of the subject site to provide them an opportunity to comment on the application. No comments were received from any of the property owners within that radius. (See Mailed Notice Radius Map, attached).

This recommendation to approve this application does not constitute a final development order; one or more concurrency determinations will subsequently be required.

Attachments:

- Public Hearing Checklist
- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Affidavit
- Mailed Notice Radius Map
- Shared Use Parking Study
- Restrictive Covenants and Easement Agreement
- Submitted Plans
- Transmittal Confirmation

PUBLIC HEARING CHECKLIST



The City Of Miami Gardens

Development Services

Public Hearing Departmental Checklist

APPLICATION INFORMATION

Applicant Name: Playa Plaza, LLC.

Project Name: Playa Plaza Retail

Project Location: 19880 NW 27th Avenue

Process Number: PH-2007-000019

Public Hearing Scheduled Date: 3/5/08

Public Hearing Representative:

APPLICANT'S REQUEST

- ☐ District Boundary Change ☐ Use Variance ☒ Non-Use Variance ☐ Unusual Use ☐ Special Exception
- ☐ Small-Scale Amendment ☐ Modification of Resolution ☐ Modification of Declaration or Covenant

DEPARTMENT REVIEW

Departmental procedures prior to public hearing

Mandatory

- ☒ Completed Application
- ☒ Letter of Intent
- ☐ Legal Description (electronic)
- ☒ Fees Collected
- ☒ 2 Sets of Original Plans
- ☒ 1 set of 8½ x 11 of Plans
- ☒ Digital copies of plans
- ☒ Survey

☒ Site Plan Review

1. Electronic Plans (.pdf & .dwg)
2. Site Plan
3. Floor Plan
4. Elevation Plan
5. Landscape Plan
6. Survey
7. Architectural Renderings

If applicable

- ☐ School Checklist
- ☐ School Board Report
- ☐ Traffic Study
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Statement
- ☐ Neighborhood Outreach
- ☐ Proffered Community Amenities
- ☐ Liquor Survey

ADMINISTRATIVE ACTIONS

<input checked="" type="checkbox"/> DIC Meeting (if applicable)	<input checked="" type="checkbox"/> Preliminary Notice	<input checked="" type="checkbox"/> Posting Signs (Public Works)
<input checked="" type="checkbox"/> Radius Map	<input checked="" type="checkbox"/> Final Notice	<input checked="" type="checkbox"/> Staff Recommendation
<input checked="" type="checkbox"/> Zoning Map	<input checked="" type="checkbox"/> Layman's Notice	<input checked="" type="checkbox"/> Notify Applicant
<input checked="" type="checkbox"/> Aerial Map	<input checked="" type="checkbox"/> Full Legal Advertisement	<input checked="" type="checkbox"/> Proposed Resolution or Ordinance
<input checked="" type="checkbox"/> Site Visit Date: <u>Cyril</u>		
By: <u>2/1/08</u>		

RECOMMENDATION OUTLINE**1. Summary****2. City Council Action – (2nd reading)****3. Recommendation****4. Review and Analysis**

- Neighborhood Land Use Characteristics
- Land Use Analysis (consistency with CDMP)
- Zoning Analysis (compliance with zoning code)
- Concurrency Analysis (water & sewer, traffic, schools and/or drainage/irrigation)
- Code Enforcement Violation Notice
 - ☐ Yes (attached)
 - ☒ No

5. Attachments

- ☒ Letter of Intent
- ☒ Zoning Map
- ☒ Aerial Map
- ☒ Radius Map
- ☒ Plans
- ☐ School Board Report (if any)
- ☐ Traffic Study (if any)
- ☐ Economic Analysis (if any)
- ☐ Environmental Impact Statement (if any)
- ☐ Historical Information - (if any)
 - Declaration of Restriction
 - Unity of Title
 - Resolution
- ☐ Proposed Resolution or Ordinance
- ☐ Proffered Declaration of Restrictions

ZONING AGENDA DECISION**Date:**

Action: ☐ Introduction ☐ Deferred ☐ Rescheduled ☐ Resolution ☐ 1st Reading ☐ 2nd Reading
Result: ☐ Approved ☐ Approved with Conditions ☐ Denied

Date:

Action: ☐ Introduction ☐ Deferred ☐ Rescheduled ☐ Resolution ☐ 1st Reading ☐ 2nd Reading
Result: ☐ Approved ☐ Approved with Conditions ☐ Denied

Date:

Action: ☐ Introduction ☐ Deferred ☐ Rescheduled ☐ Resolution ☐ 1st Reading ☐ 2nd Reading
Result: ☐ Approved ☐ Approved with Conditions ☐ Denied

Date:

Action: ☐ Introduction ☐ Deferred ☐ Rescheduled ☐ Resolution ☐ 1st Reading ☐ 2nd Reading
Result: ☐ Approved ☐ Approved with Conditions ☐ Denied

LETTER OF INTENT

October 23, 2007
047905001

Mr. Nixon Lebrun
City of Miami Gardens
1515 NW 167 Street, Bldg. 5, Suite 200
Miami Gardens, FL 33169

RE: Playa Plaza Retail

Dear Nixon:


Please accept this letter of intent as a formal request to reduce the amount of required parking related to the development of the three outparcels at the Home Depot located at the southeast quadrant of NW 27th Avenue and NW 199th Street. In particular this is related to the addition of 5,240 sf of restaurant space at Playa Plaza Retail (one of the three outparcels) and the possible future addition of a restaurant at the southern most outparcel. We are asking for a reduction of 50 spaces on the site which would allow for the development of approximately 5,280 sf of restaurant. The parking for the site is shared between all parcels including Home Depot.

Playa Plaza Retail and the remaining parcels had originally been intended for retail use. There is currently a high interest by restaurants to develop within this area of the city, based on the market which is driving this request. In converting retail space to restaurant we fall short of the code requirement. Again, we are asking for a reduction of fifty (50) spaces in the overall number of required parking spaces. This is less than an 8% reduction from the total amount of required parking spaces. Home Depot has concluded parking studies that demonstrate they only utilize approximately 500 parking spaces in a peak time of the year. This is 58 parking spaces less than the code requirement. The studies will be submitted under a separate cover.

We appreciate your attention to this important project. Please contact Peter Van Rens at (772) 794-4073 with any questions or requests for additional information.

Sincerely,

Playa Plaza LLC



Mark Blieden

cc: File

HEARING MAP - ZONING

HEARING MAP - AERIAL



HEARING MAP: AERIAL

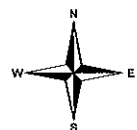


City of Miami Gardens
Planning & Zoning Services

☐ Subject Property

Applicant
Playa Plaza

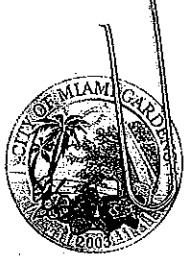
Project Location:
East of NW 27 AVE & North of 191 ST
Miami Gardens, FL 33169



1 inch equals 250 feet

December 2007

MAILED NOTICE AFFIDAVIT



The City of Miami Gardens

Development Services Department

AFFIDAVIT FOR MAILING OF FINAL NOTICES

Re: Hearing No.: PH-2007-000019

Applicant Name: Playa Plaza

I, as the undersigned individual, do hereby affirm by my signature and date that all of the property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated within

- ☒ 500'
- ☐ ½ mile
- ☐ 1 mile

minimum radius of the property described in the above-referenced file has been input into the computer system prior to the deadline for the mailing of notices.

Signature: B.A. Paudyal (GIS Analyst)

Date: 2/20/2008

I, as the undersigned individual, do hereby affirm that on the dated referenced below, the notices corresponding to the property owners as hereby referenced were emailed and/or otherwise delivered to Post-It Inc. 1480 NE 129th Street North Miami, FL 33161 info@postitinc.com for postmarking and mailing.

Signature: [Signature] (Zoning Technician)

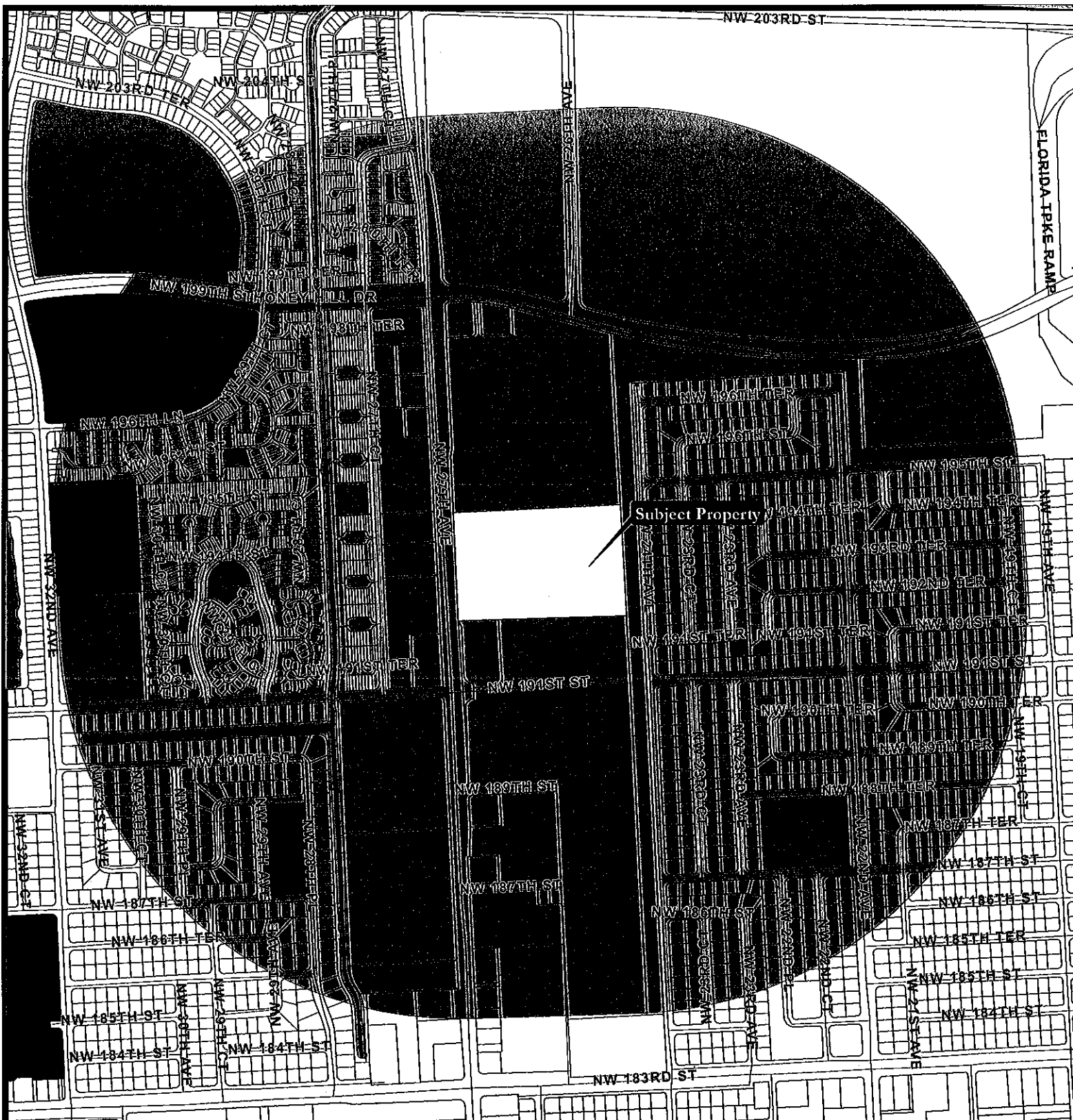
Date: 2/20/08

I, as the undersigned individual, do hereby affirm that on the date referenced below, a notice for the aforementioned file was received from and postmarked date: 01/04/08 through the US Postal Service.

Signature: [Signature] (Zoning Administrator)

Date: 2-20-08

MAILED NOTICE RADIUS MAP



MAILED NOTICE RADIUS MAP



City of Miami Gardens
Planning & Zoning Services

 Subject Property (1.66 Acres)

Applicant:
Playa Plaza

Project Location:
East of NW 27 AVE & North of 191 ST
Miami Gardens, FL 33169



1 inch equals 840 feet

December 2007

SHARED USE PARKING STUDY

SHARED USE PARKING STUDY

Playa Plaza
City of Miami Gardens, Florida

Prepared for:
Playa Plaza, LLC
6100 Dutchmans Lane
Louisville, KY 40205

047905000
December 2007
©Kimley-Horn and Associates, Inc.
CA Number 00000696
5200 NW 33rd Avenue
Fort Lauderdale, Florida 33309
772-562-7981 TEL
772-794-9368 FAX



Kimley-Horn
and Associates, Inc.

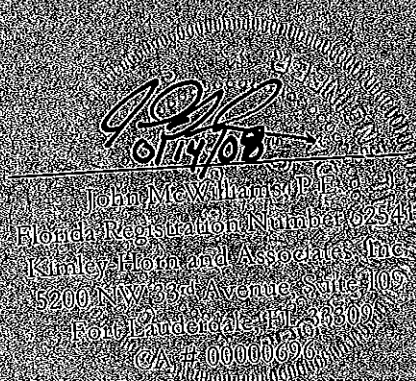
Playa Plaza

SHARED USE PARKING STUDY

Prepared for:
Playa Plaza, LLC
6100 Dutchmans Lane
Louisville, KY 40205

Prepared by:
Kimley-Horn and Associates, Inc.
Fort Lauderdale, Florida

December, 2007



1047905001

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TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
LIST OF TABLES.....	ii
LIST OF TABLES.....	iii
I. INTRODUCTION	1
II. REQUIRED PARKING SPACES.....	3
III. SHARED USE PARKING METHODOLOGY	3
IV. SHARED USE PARKING ANALYSIS RESULTS	5
V. MAXIMUM RESTAURANT INTENSITY FOR PROVIDED PARKING	8
VI. CONCLUSION	12

APPENDICES

- A1 ULI PARKING DISTRIBUTIONS
- A2 TRAFFIC CALCULATIONS
- A3 SITE PLAN

LIST OF FIGURES

<u>Figure No.</u>	<u>Title</u>	<u>Page</u>
	FIGURE 1 – LOCATION MAP	2

LIST OF TABLES

<u>Table No.</u>	<u>Title</u>	<u>Page</u>
TABLE 1	– MIAMI-DADE PARKING CODE REQUIREMENTS	3
TABLE 2	– WEEKDAY PEAK SEASON – ULI SHARED PARKING REQUIREMENTS	6
TABLE 3	– WEEKEND PEAK SEASON – ULI SHARED PARKING REQUIREMENTS	7
TABLE 4	– MIAMI-DADE PARKING CODE REQUIREMENTS FOR MAXIMUM RESTAURANT INTENSITY	8
TABLE 5	– MAXIMUM RESTAURANT INTENSITY, WEEKDAY PEAK SEASON – ULI SHARED PARKING REQUIREMENTS	10
TABLE 6	– MAXIMUM RESTAURANT INTENSITY, WEEKEND PEAK SEASON – ULI SHARED PARKING REQUIREMENTS	11

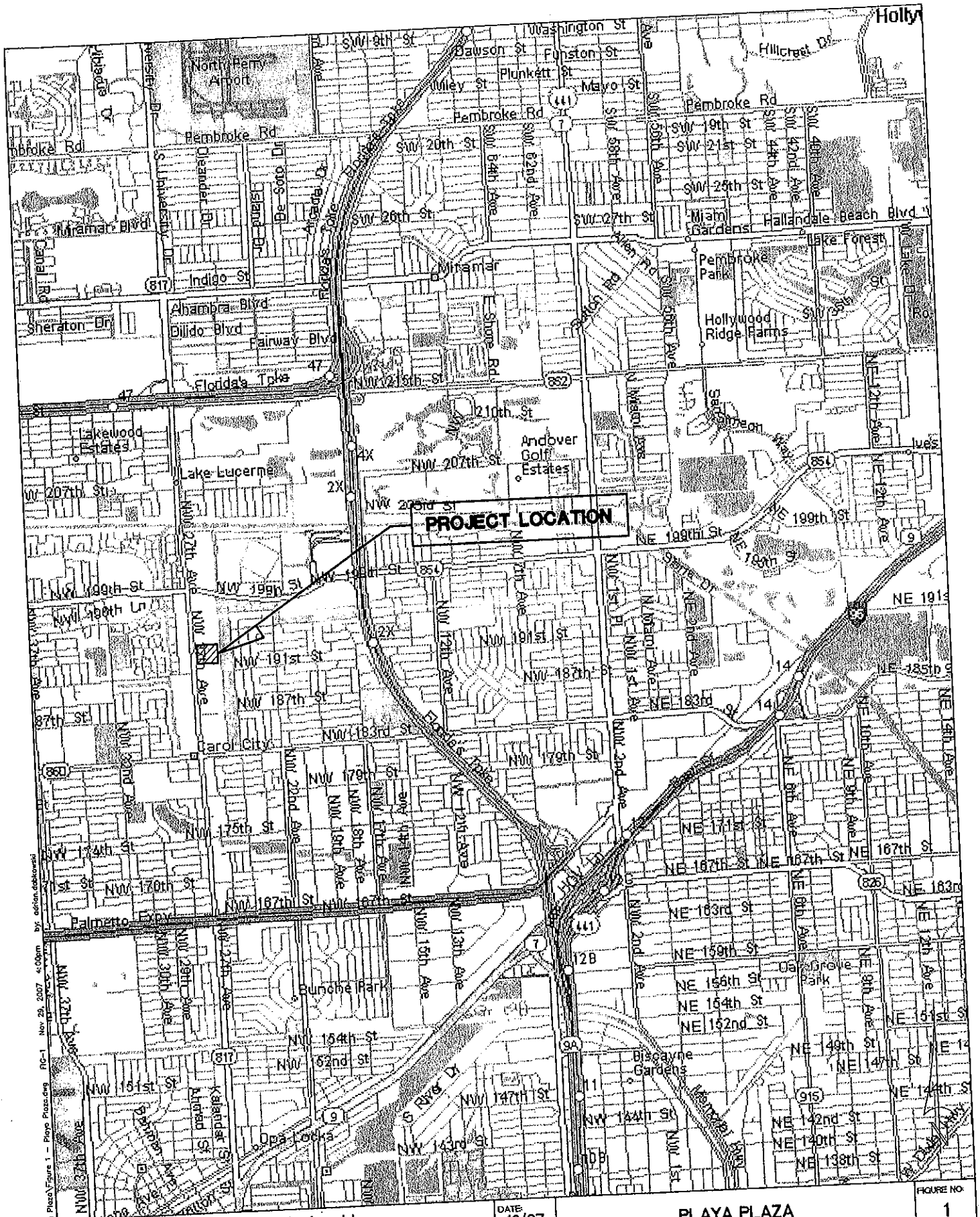
I. INTRODUCTION

The intent of this report is determine the minimum parking requirements for the Playa Plaza Commercial Development based upon the criteria established within the City of Miami Gardens and Miami-Dade County (MDCO) Code of Ordinances Parking Regulations Section 33-124.

Based on the latest site plan available dated 11/26/07, the applicant is proposing to a mixed-use develop consisting of the following:

- 139,529 square-foot home improvement superstore
- Outparcel A
 - 5,240 square-foot high-turnover (sit-down restaurant)
 - 7,100 square-feet of specialty retail
- Outparcel B
 - 4,100 square-foot drive-in bank
- Outparcel C
 - 2,800 square-foot high-turnover (sit-down restaurant)

The parcel proposed for development is located on the east side of NW 27th Avenue north of NW 183rd Street. A location map depicting the proposed project is provided as *Figure 1*.



**Kimley-Horn
and Associates, Inc.**

5200 NW 33rd Ave., Suite 109, Ft. Lauderdale, FL 33309

Phone (954)535-5100 Fax (954)739-2247

DATE
12/07
SCALE
NTS
DN

**PLAYA PLAZA
LOCATION MAP**

FIGURE NO.
1
PAGE

II. REQUIRED PARKING SPACES

Based upon the land uses and development intensity associated with the project, the criteria outlined within the MDCO Code of Ordinances Section 33-124 specifies that 685 parking stalls are required to provide adequate parking accommodations. Table 1 provides the parking accommodation required for each land use. The current site plan provides for 676 parking stalls.

TABLE 1 – MIAMI-DADE PARKING CODE REQUIREMENTS

Land Use	Area	Parking Ratio	Parking Requirements
Retail			
Home Depot	139,529 s.f.	4.0 space per 1000 s.f.	558
Outparcel "A"			
Restaurant ^[1]	5,240 s.f.	20.0 space per 1000 s.f.	53
Retail	7,100 s.f.	4.0 space per 1000 s.f.	28
Outparcel "B"			
Bank	4,100 s.f.	4.30 space per 1000 s.f.	18
Outparcel "C"			
Restaurant ^[1]	2,800 s.f.	20.00 space per 1000 s.f.	28
Total			685

Note: [1] Based on 50% patron use area

III. SHARED USE PARKING METHODOLOGY

The Urban Land Institute (ULI) has developed a shared use parking methodology. The rationalization of this methodology is to identify primary independent variables affecting parking demand, identify the relative effects and universality of those variables and develop a standard methodology for analyzing shared parking.

Shared parking is defined as a parking space that can be used to serve two or more individual land uses without conflict or encroachment. The opportunity to implement shared parking is generated by the following:

- Variations in the peak accumulation of parked vehicles as the result of different activity patterns of adjacent or nearby land uses (by hour, by day, by season).
- Relationships among land use activities that result in peoples' attraction to two or more land uses on a single vehicular trip to a given area or development.

MDCO parking codes are provided in terms of peak parking ratios for major classifications of land uses and do not account for the impact of shared/combined parking which can be significantly less than the sum of individual land uses. Essentially, peak parking accumulations for individual land uses in a mixed-land use development can occur at different times during the day. This is also true for weekdays versus weekends and seasonal variations.

The ULI has developed hourly parking demand distributions for a consortium of land uses. These distributions are presented in a table format and provide a percent of the required parking ratio on an hourly basis through out the course of a day, which is denoted as hourly percent required. Each individual land use parking demand is summated to estimate the overall shared parking demand for the project.

Explained further, when the hourly percent requirement equals 100%, all of the County's specified parking spaces, for that particular land use, are required to be available. The ULI parking demand distributions tables are provided in the *Appendix*.

IV. SHARED USE PARKING ANALYSIS RESULTS

Based on the ULI distributions and the MDCO Parking Code ratios, the weekday peak season shared use parking requirement is 663 spaces which occurs between 5:00 and 6:00 PM. The weekend peak season requirement is 651 which occurs between 12:00 and 1:00 PM. *Tables 2 and 3* provide summaries for weekday peak season and weekend peak season parking demand, respectively. Therefore, adequate parking is provided as the current site plan provides 676 parking spaces. All of the Home Improvement Superstore MDCO required parking spaces, 558, are provided for in all analysis hours for both weekday and weekend.

As this site will consist of multiple uses all accessible to one another, there exists a high potential that trip interaction will occur between the various land uses. This interaction is commonly referred to as internal capture for vehicular trip calculations and captive market adjustment for parking calculations.

The influence the internal capture effect has on this project was calculated utilizing the ITE methodology for the site. Based on the ITE methodology, internal capture for the site was calculated to be 27.52%. In an effort to maintain conservative reporting of traffic calculations consistent with Miami-Dade County methodology, an internal capture rate of 5% was utilized in determining captive market adjustment.

Playa Plaza

TABLE 2 - WEEKDAY PEAK SEASON - ULI SHARED PARKING REQUIREMENTS

No. of spaces	Retail (Home Depot)			Retail (Outparcel A)			Restaurant (Outparcel A)			Bank (Outparcel B)			Restaurant (Outparcel C)			Sub Total Home Depot	Sub Total Outparcels	Captive Market Adjustment	Total
	Cus/Depot	Cust ULI Rate		Cus/Depot	Cust ULI Rate		Emp	Emp ULI Rate	Cus	Cust ULI Rate		Emp	Emp ULI Rate	Cus	Cust ULI Rate				
6 a.m.	558	15%		0	1%		0	-	0	-		0	50%	5	25%	558	9	5%	567
7 a.m.	6	5%		0	5%		0	-	0	-		0	75%	11	50%	558	20	5%	577
8 a.m.	28	15%		4	15%		3	50%	0	50%		2	90%	13	60%	558	39	5%	595
9 a.m.	84	35%		10	35%		10	75%	0	90%		4	100%	16	75%	558	59	5%	614
10 a.m.	195	65%		18	65%		12	90%	6	15%		4	100%	18	85%	558	79	5%	633
11 a.m.	363	85%		24	85%		12	90%	16	40%		4	100%	21	100%	558	108	5%	661
12 p.m.	474	95%		27	95%		12	90%	30	75%		4	100%	19	90%	558	107	5%	660
1 p.m.	530	100%		28	100%		12	90%	30	65%		4	100%	11	50%	558	97	5%	630
2 p.m.	558	95%		27	95%		10	75%	16	40%		4	100%	9	45%	558	77	5%	631
3 p.m.	530	90%		26	90%		10	75%	20	50%		4	100%	16	75%	558	85	5%	639
4 p.m.	502	95%		27	95%		13	100%	30	75%		4	100%	17	80%	558	111	5%	663
5 p.m.	530	95%		27	95%		13	100%	38	95%		0	-	0	-	558	102	5%	655
6 p.m.	530	95%		27	95%		13	100%	40	100%		0	-	0	-	558	104	5%	657
7 p.m.	530	95%		27	95%		13	100%	40	100%		0	-	0	-	558	100	5%	653
8 p.m.	446	80%		23	80%		13	100%	40	100%		0	-	0	-	558	86	5%	640
9 p.m.	279	50%		14	50%		13	100%	38	95%		0	-	0	-	558	77	5%	631
10 p.m.	167	30%		9	30%		11	85%	30	75%		0	-	0	-	558	60	5%	615
11 p.m.	56	10%		3	10%		5	35%	10	25%		0	-	0	-	558	22	5%	579
12 a.m.	0	-		0	-		0	-	0	-		0	-	0	-	558	22	5%	579

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Playa Plaza

TABLE 3 -- WEEKEND PEAK SEASON -- ULI SHARED PARKING REQUIREMENTS

No. of spaces	Retail: (Home Depot)		Retail (Outparcel A)			Restaurant (Outparcel A)				Bank (Outparcel B)				Restaurant (Outparcel C)				Sub Total Home Depot	Sub Total Outparcels	Captive Market Adjustment	Total
	Cus/Depot	Cust ULI Rate	Cus/Depot	Cust ULI Rate	Emp	Emp ULI Rate	Cus	Cust ULI Rate	Emp	Emp ULI Rate	Cus	Cust ULI Rate	Emp	Emp ULI Rate	Cus	Cust ULI Rate					
Time of Day	558																				
6 a.m.	6	1%	0	1%	0	-	0	-	0	-	0	-	4	50%	2	10%	558	6	5%	564	
7 a.m.	28	5%	1	5%	3	20%	0	-	0	-	0	-	5	75%	5	25%	558	14	5%	571	
8 a.m.	56	10%	3	10%	4	30%	0	-	4	90%	6	40%	6	90%	15	70%	558	30	5%	587	
9 a.m.	167	30%	9	30%	8	60%	0	-	4	100%	6	40%	6	90%	19	90%	558	48	5%	604	
10 a.m.	279	50%	14	50%	10	75%	0	-	4	100%	11	75%	7	100%	19	90%	558	65	5%	620	
11 a.m.	363	65%	18	65%	10	75%	6	15%	4	100%	14	100%	7	100%	19	90%	558	78	5%	632	
12 p.m.	445	80%	23	80%	10	75%	20	50%	4	100%	13	90%	7	100%	21	100%	558	98	5%	651	
1 p.m.	502	90%	26	90%	10	75%	22	55%	0	-	0	-	7	100%	18	85%	558	83	5%	637	
2 p.m.	558	100%	28	100%	10	75%	18	45%	0	-	0	-	7	100%	14	65%	558	77	5%	624	
3 p.m.	558	100%	28	100%	10	75%	18	45%	0	-	0	-	5	75%	8	40%	558	69	5%	624	
4 p.m.	530	95%	27	95%	10	75%	18	45%	0	-	0	-	5	75%	9	45%	558	69	5%	637	
5 p.m.	502	90%	26	90%	13	100%	24	60%	0	-	0	-	7	95%	13	60%	558	83	5%	647	
6 p.m.	446	80%	23	80%	13	100%	36	90%	0	-	0	-	7	95%	15	70%	558	94	5%	647	
7 p.m.	419	75%	21	75%	13	100%	38	95%	0	-	0	-	7	95%	15	70%	558	94	5%	645	
8 p.m.	363	65%	18	65%	13	100%	40	100%	0	-	0	-	7	95%	14	65%	558	92	5%	629	
9 p.m.	279	50%	14	50%	13	100%	36	90%	0	-	0	-	6	80%	6	30%	558	75	5%	624	
10 p.m.	195	35%	10	35%	13	85%	36	90%	0	-	0	-	5	65%	5	25%	558	69	5%	614	
11 p.m.	84	15%	4	15%	11	85%	36	90%	0	-	0	-	5	65%	3	15%	558	59	5%	581	
12 a.m.	0	-	0	-	0	-	20	50%	0	-	0	-	2	35%	2	10%	558	24	5%		

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V. MAXIMUM RESTAURANT INTENSITY FOR PROVIDED PARKING

An additional analysis was prepared for outparcel "A" to quantify the maximum intensity of restaurant area within the 676 provided parking stalls while maintaining an overall outparcel intensity of 12,340 square-feet. The current site plan provides for 5,240 square-feet of restaurant and 7,100 square-feet of retail on outparcel "A".

Table 4 provides a summary of the land uses and intensities and parking requirements based solely on MDCO parking code.

TABLE 4 – MIAMI-DADE PARKING CODE REQUIREMENTS FOR MAXIMUM RESTAURANT INTENSITY

Land Use	Area	Parking Ratio	Parking Requirements
Retail			
Home Depot	139,529 s.f.	4.0 space per 1000 s.f.	558
Outparcel "A"			
Restaurant ^[1]	8,400 s.f.	20.0 space per 1000 s.f.	84
Retail	3,940 s.f.	4.0 space per 1000 s.f.	16
Outparcel "B"			
Bank	4,100 s.f.	4.30 space per 1000 s.f.	18
Outparcel "C"			
Restaurant ^[1]	2,800 s.f.	20.00 space per 1000 s.f.	28
Total			704

Note: [1] Based on 50% patron use area

The maximum intensity of the restaurant area on outparcel "A" is 8,400 square-feet which results in 3,940 square-feet of retail area.

Based on the ULI distributions and MDCO parking code ratios the weekday peak season shared use parking requirement is 676 which occurs between 5:00 and 6:00 PM. The weekend peak season requirement is 667 which occurs between 7:00 and 9:00 PM. *Tables 5 and 6* provide summaries for weekday peak season and weekend peak season parking demand, respectively.

Playa Plaza

TABLE 5 - MAXIMUM RESTAURANT INTENSITY, WEEKDAY PEAK SEASON - ULI SHARED PARKING REQUIREMENTS

No. of spaces	Retail (Home Depot)		Retail (Outparcel A)		Restaurant (Outparcel A)			Bank (Outparcel B)			Restaurant (Outparcel C)			Sub Total Home Depot		Sub Total Outparcels		Captive Market Adjustment	Total
	Cus/Depot	Cust ULI Rate	Cus/Depot	Cust ULI Rate	Emp	Emp ULI Rate	Cus	Cust ULI Rate	Emp	Emp ULI Rate	Cus	Emp ULI Rate	Cus	Cust ULI Rate	Emp	Emp ULI Rate	Cus		
6 a.m.	558	1%	0	1%	0	-	0	-	0	-	0	50%	5	25%	4	50%	5	5%	567
7 a.m.	28	5%	1	5%	4	20%	0	-	0	-	0	75%	11	50%	5	75%	11	5%	578
8 a.m.	84	15%	2	15%	11	50%	0	-	0	-	0	90%	13	60%	6	90%	13	5%	598
9 a.m.	195	35%	6	35%	16	75%	0	-	3	60%	7	90%	16	75%	6	90%	16	5%	616
10 a.m.	363	65%	10	65%	19	90%	9	15%	4	100%	14	100%	18	85%	7	100%	18	5%	635
11 a.m.	474	85%	13	85%	19	90%	25	40%	4	100%	7	100%	21	100%	7	100%	21	5%	647
12 p.m.	530	95%	15	95%	19	90%	47	75%	4	100%	7	100%	19	90%	7	100%	19	5%	671
1 p.m.	530	100%	16	100%	19	90%	41	65%	4	100%	10	70%	11	50%	7	100%	11	5%	660
2 p.m.	502	90%	14	90%	16	75%	25	40%	4	100%	7	80%	9	45%	5	75%	9	5%	634
3 p.m.	502	90%	14	90%	16	75%	32	40%	4	100%	11	80%	9	45%	5	75%	9	5%	644
4 p.m.	530	95%	15	95%	21	100%	47	75%	4	100%	14	100%	16	75%	7	95%	16	5%	676
5 p.m.	530	95%	15	95%	21	100%	60	95%	0	-	0	-	17	80%	7	95%	17	5%	675
6 p.m.	530	95%	15	95%	21	100%	63	100%	0	-	0	-	17	80%	7	95%	17	5%	673
7 p.m.	446	80%	13	80%	21	100%	63	100%	0	-	0	-	13	60%	6	80%	13	5%	663
8 p.m.	279	50%	8	50%	21	100%	60	100%	0	-	0	-	12	55%	5	65%	12	5%	656
9 p.m.	167	30%	5	30%	21	100%	47	75%	0	-	0	-	11	50%	5	65%	11	5%	637
10 p.m.	56	10%	2	10%	18	85%	16	75%	0	-	0	-	5	25%	2	35%	5	5%	587
11 p.m.	0	-	0	-	7	35%	16	25%	0	-	0	-	2	-	0	-	2	5%	587
12 a.m.	0	-	0	-	0	-	0	-	0	-	0	-	0	-	0	-	0	5%	587

Playa Plaza

TABLE 6 - MAXIMUM RESTAURANT INTENSITY, WEEKEND PEAK SEASON - ULI SHARED PARKING REQUIREMENTS

No. of spaces	Retail (Home Depot)			Retail (Outparcel A)			Restaurant (Outparcel A)				Bank (Outparcel B)				Restaurant (Outparcel C)				Sub Total Home Depot		Sub Total Outparcels	Captive Market Adjustment	Total	
	Cus/Emp	Cust ULI Rate	16	Cus/Emp	Cust ULI Rate	21	Emp	Rate	Cus	Cust ULI Rate	4	Emp	Rate	Cus	Cust ULI Rate	7	Emp	Rate	21	Cus				Cust ULI Rate
Time of Day																								
6 a.m.	6	1%	0	1%	0	0	0	20%	0	-	0	0	50%	2	10%	558	5%	564						
7 a.m.	28	5%	1	5%	4	4	30%	0	0	-	0	75%	5	25%	558	5%	572							
8 a.m.	56	10%	2	10%	6	6	40%	90%	0	25%	4	90%	9	45%	558	5%	587							
9 a.m.	167	30%	5	30%	13	13	60%	100%	0	75%	4	100%	15	70%	558	5%	605							
10 a.m.	279	50%	8	50%	16	16	75%	100%	0	100%	4	100%	19	90%	558	5%	633							
11 a.m.	363	65%	10	65%	16	16	75%	100%	0	100%	4	100%	21	100%	558	5%	659							
12 p.m.	446	80%	13	80%	16	16	75%	100%	32	90%	4	100%	18	85%	558	5%	644							
1 p.m.	502	90%	14	90%	16	16	75%	100%	35	55%	0	0	14	65%	558	5%	635							
2 p.m.	558	100%	16	100%	16	16	75%	100%	28	45%	0	0	8	40%	558	5%	627							
3 p.m.	558	100%	16	100%	16	16	75%	100%	28	45%	0	0	9	45%	558	5%	627							
4 p.m.	530	95%	15	95%	16	16	75%	100%	28	45%	0	0	13	60%	558	5%	646							
5 p.m.	502	90%	14	90%	21	21	100%	100%	38	60%	0	0	15	70%	558	5%	665							
6 p.m.	446	80%	13	80%	21	21	100%	100%	57	90%	0	0	15	70%	558	5%	667							
7 p.m.	419	75%	12	75%	21	21	100%	95%	60	95%	0	0	14	65%	558	5%	651							
8 p.m.	363	65%	10	65%	21	21	100%	100%	63	100%	0	0	6	30%	558	5%	647							
9 p.m.	279	50%	8	50%	21	21	100%	90%	57	90%	0	0	5	25%	558	5%	639							
10 p.m.	195	35%	6	35%	21	21	100%	90%	57	90%	0	0	3	15%	558	5%	592							
11 p.m.	84	15%	2	15%	18	18	85%	90%	57	90%	0	0	2	10%	558	5%	592							
12 a.m.	0	-	0	-	0	0	0	50%	32	50%	0	0	0	0	0	0	0	0	2	10%	0	0		

VI. CONCLUSION

The applicant is proposing to a mixed-use development consisting of:

- 139,529 square-foot home improvement superstore
- Outparcel A
 - 5,240 square-foot high-turnover (sit-down restaurant)
 - 7,100 square-feet of specialty retail
- Outparcel B
 - 4,100 square-foot drive-in bank
- Outparcel C
 - 2,800 square-foot high-turnover (sit-down restaurant)

Based on City of Miami Gardens and MDCO parking code, evaluating each land use independent of one another, will require 685 parking spaces to be provided. However, evaluating the site based upon the parking demand distributions and characteristics contained within the ULI Shared Parking Study, the peak season parking demand is calculated to be 663 parking spaces. This will satisfy the vehicular parking demand associated with the proposed mixed-use development, as the current site plan provides 676 parking stalls, consistent with the ULI methodology and MDCO Code Section 33-124. The net decrease is 22 parking spaces (3% reduction) from the MDCO parking requirements.

In analyzing the maximum restaurant intensity that can be developed on outparcel "A" within the 676 provided parking spaces and maintaining an overall intensity of 12,340 square-feet within outparcel "A", the following land-uses and intensities satisfy the vehicular parking demand.

- 8,400 square-foot high-turnover (sit-down restaurant)
- 3,940 square-feet of specialty retail

APPENDIX

- A1 ULI PARKING DISTRIBUTIONS
- A2 TRAFFIC CALCULATIONS
- A3 SITE PLAN

A1

ULI PARKING DISTRIBUTIONS

Recommended Time-of-Day Factors for Weekdays

Recommended Time-of-Day Factors for Weekdays												
Land Use	User	6 a.m.	7 a.m.	8 a.m.	9 a.m.	10 a.m.	11 a.m.	Noon	1 p.m.	2 p.m.		Source
Shopping Center—Typical	Customer	1%	5%	15%	35%	65%	85%	95%	100%	95%	—	1
	Customer	1%	5%	15%	35%	55%	75%	90%	100%	100%	—	1
	Customer	1%	5%	10%	20%	40%	65%	90%	100%	100%	—	1
	Customer	10%	15%	40%	75%	85%	95%	100%	100%	100%	—	2
Peak Shopping	Employee	10%	—	—	15%	40%	75%	75%	65%	65%	25%	2
	Customer	—	—	—	—	—	15%	40%	75%	75%	35%	2
	Employee	—	—	—	—	—	15%	40%	90%	90%	55%	2
	Employee	—	20%	50%	75%	90%	90%	90%	90%	50%	35%	2
Fine/Casual Dining	Employee	25%	50%	60%	75%	85%	90%	100%	100%	100%	65%	2
	Customer	50%	75%	90%	100%	100%	100%	100%	100%	100%	5%	3
	Employee	50%	90%	100%	100%	100%	100%	100%	100%	100%	20%	2
	Employee	5%	10%	20%	30%	55%	85%	100%	100%	100%	70%	2
Fast Food	Customer	5%	10%	20%	30%	55%	85%	100%	100%	100%	100%	2
	Employee	15%	20%	30%	40%	75%	100%	100%	100%	100%	100%	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Nightclub	Customer	—	—	—	—	—	—	—	—	—	—	2.6
	Employee	—	—	—	—	—	—	—	—	—	—	2.6
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Cineplex—Typical	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Late December	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Performing Arts Theater	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Arena	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Stadium	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
g.p.m. Stan	Customer	70%	40%	70%	75%	75%	75%	75%	75%	75%	10%	2.4
	Employee	75%	75%	75%	75%	75%	75%	75%	75%	75%	20%	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Health Club	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Convention Center	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Hotel—Business	Customer	5%	30%	33%	33%	100%	100%	100%	100%	100%	100%	5
	Employee	95%	90%	80%	70%	60%	60%	55%	55%	60%	95%	2
	Guest	95%	95%	95%	90%	80%	70%	65%	65%	65%	95%	5
	Guest	95%	95%	95%	90%	80%	70%	65%	65%	65%	95%	5.3
Hotel—Leisure	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Restaurant/Lounge	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Conference/Banquet	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Convention	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Residential	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Residential	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Office	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Medical/Dental Office	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
Bank	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2
	Customer	—	—	—	—	—	—	—	—	—	—	2
	Employee	—	—	—	—	—	—	—	—	—	—	2

Sources:

1. Comprehensive data provided by the Strategic Center, Inc.
2. Developed by team members.
3. Paying Corporation, Ltd.
4. Washington, D.C. Institute of Transportation Engineers, 1982.
5. John W. Dorsett, "Training Requirements for Health Care: The Training Professionals' April 1984.
6. General Services Administration, "New Facilities through a Union and Jointly 1985.
7. Planning studies conducted by the Planning Board, 1985.
8. Planning Board, 1985.

A2

TRAFFIC CALCULATIONS

TRIP GENERATION

DAILY TRIP GENERATION

ITE-TRIP GENERATION CHARACTERISTICS															DIRECTIONAL DISTRIBUTION				GROSS VOLUMES				INTERNAL CAPTURE				EXTERNAL TRIPS				PASS-BY CAPTURE				NET NEW EXTERNAL TRIPS			
Land Use															ITE		ITE Code	Scale	Units		Percent		In	Out	Total	Percent	Trips	IC	In	Out	Total	Percent	Trips	PB	In	Out	Total	
															Edition	ITE			ITE	ITE	In	Out																
1	Home Depot	7	862	139,364	Ksf	50%	50%	2,024	2,024	4,048	0.0%	0	0	2,024	2,024	4,048	48.0%	1,944	84	2,104	48.0%	1,052	84	1,052	2,104													
2	Outparcel A	7	814	4,936	Ksf	50%	50%	124	124	248	0.0%	0	0	124	124	248	48.0%	120	268	536	48.0%	268	268	532	532													
3	Outparcel A	7	932	7,404	Ksf	50%	50%	471	471	942	0.0%	0	0	471	471	942	43.0%	406	286	532	43.0%	472	286	101	202													
4	Outparcel B	7	912	4.1	Ksf	50%	50%	502	502	1,004	0.0%	0	0	502	502	1,004	43.0%	154	101	202	43.0%	154	101	202	202													
5	Outparcel C	7	932	2.8	Ksf	50%	50%	178	178	356	0.0%	0	0	178	178	356																						
6																																						
7																																						
8																																						
9																																						
10																																						
11																																						
12																																						
13																																						
14																																						
15																																						
Total:															3,299	3,299	6,598									3,299	3,299	6,598	46.9%	3,096	1,751	1,751	3,502					
G R O U P																																						
2																																						

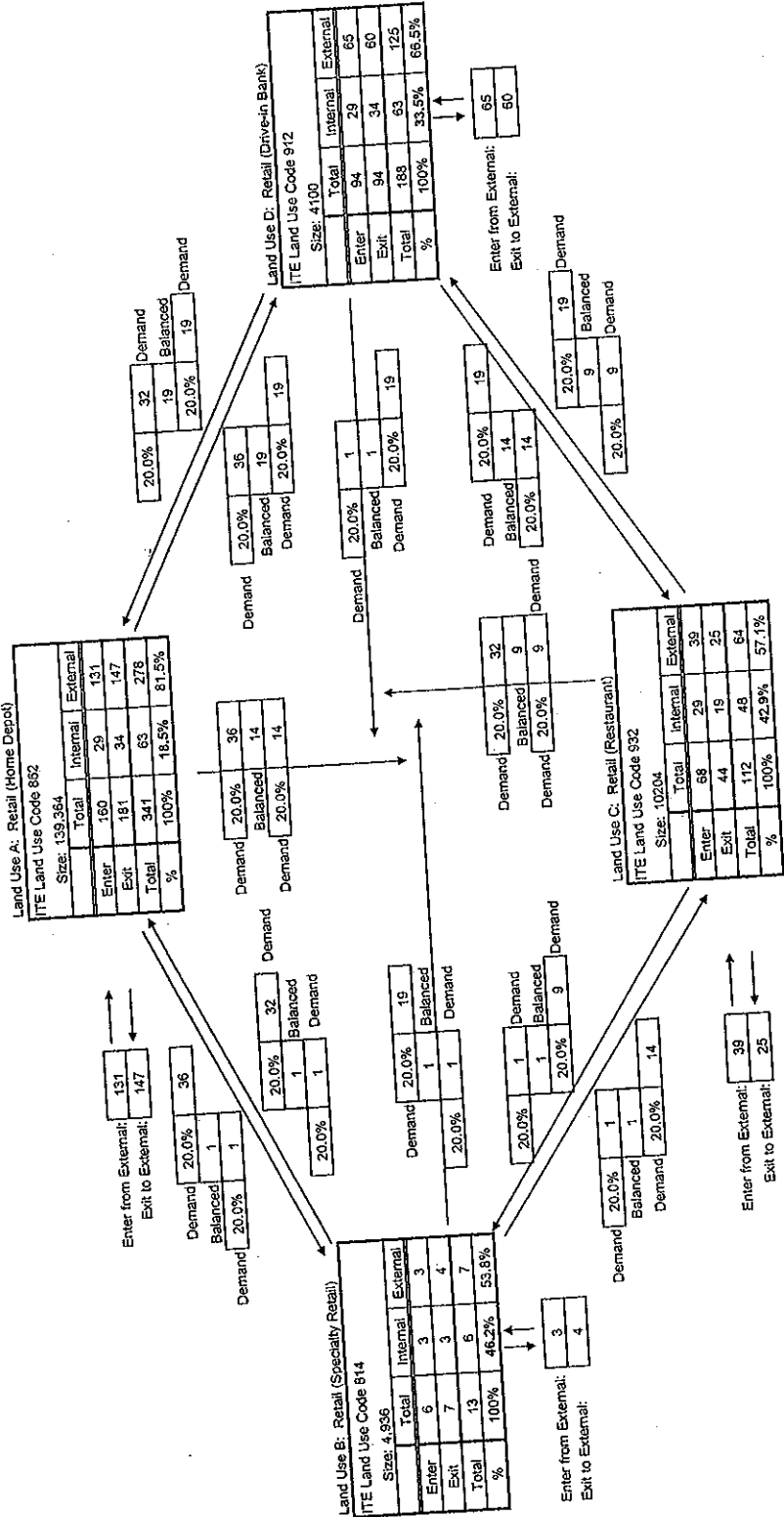
PM PEAK HOUR TRIP GENERATION

ITE-TRIP GENERATION CHARACTERISTICS															DIRECTIONAL DISTRIBUTION				GROSS VOLUMES				INTERNAL CAPTURE				EXTERNAL TRIPS				PASS-BY CAPTURE				NET NEW EXTERNAL TRIPS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
Land Use															ITE		ITE		Scale		ITE		Percent		In		Out		In		Out		Total		Percent		Trips		IC		In		Out		Total		Percent		Trips		PB		In		Out		Total																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
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ITE MULTI-USE PROJECT INTERNAL CAPTURE WORKSHEET

(Source: Chapter 7, ITE Trip Generation Handbook, June 2004)

Project Number:
Project Name:
Scenario:
Analysis Period: PM Peak
Analyst:

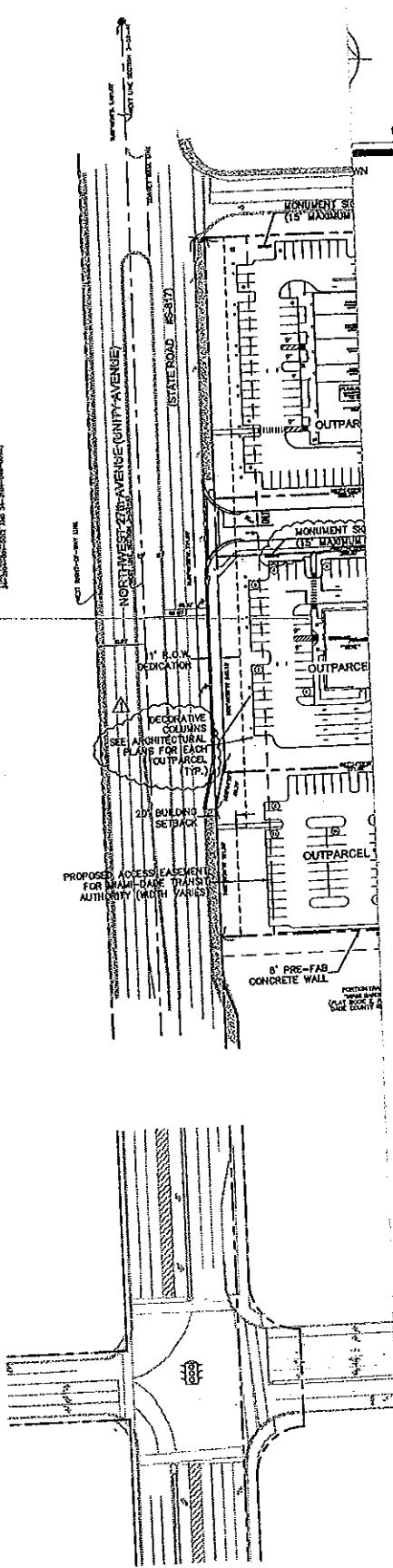


NET EXTERNAL TRIPS FOR MULTI-USE DEVELOPMENT					
Category	Land Use				Total
	A	B	C	D	
Enter	131	3	25	65	224
Exit	147	4	39	60	250
Total	278	7	64	125	474
Single Use	341	13	112	188	654
Trip Gen Estimate					Overall Internal Capture = 27.52%

A.5

SPITE PLAIN

Drawing name: H:\47905000\CADD\CONSTR\C102 Master Site Plan.dwg C102 Nov 26, 2007 2:24pm by: bryce.christensen
 This document, together with the landscape and design presented herein, is submitted only for the specific purpose and client for which it was prepared. Review of and approval reliance on this document without written authorization and delegation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



PROJECT INFORMATION

SITE AREA

THE HOME DEPOT	471,194 SF	±10.82 AC
OUTPARCEL A	72,397 SF	±1.66 AC
OUTPARCEL B	59,977 SF	±1.37 AC
OUTPARCEL C	47,711 SF	±1.08 AC
BUFFER	155,813 SF	±3.58 AC
R.O.W. DEDICATION	6,481 SF	±0.15 AC
TOTAL	812,893 SF	±18.66 AC

BUILDING AREA

THE HOME DEPOT	102,513 SF
VESTIBULES	2,373 SF
SUBTOTAL	104,886 SF
GARDEN CENTER	139,529 SF
HOME DEPOT TOTAL	12,340 SF
OUTPARCEL A (RETAIL)	4,100 SF
OUTPARCEL B (BANK)	2,800 SF
OUTPARCEL C (RESTAURANT)	158,768 SF
GRAND TOTAL	158,768 SF

LOT COVERAGE - THE HOME DEPOT

THE HOME DEPOT	139,529 SF	29.61%
DETENTION	N/A	N/A
PERVIOUS	47,666 SF	10.12%
IMPERVIOUS	283,079 SF	60.27%
TOTAL	471,194 SF	100.00%

LOT COVERAGE - OUTPARCEL A

RETAIL/RESTAURANT	12,340 SF	17.04%
DETENTION	N/A	N/A
PERVIOUS	19,778 SF	27.31%
IMPERVIOUS	40,933 SF	56.65%
TOTAL	72,347 SF	100.00%

LOT COVERAGE - OUTPARCEL B

BANK	4,100 SF	6.84%
DETENTION	N/A	N/A
PERVIOUS	17,731 SF	28.62%
IMPERVIOUS	38,146 SF	61.54%
TOTAL	59,977 SF	100.00%

LOT COVERAGE - OUTPARCEL C

RESTAURANT	2,800 SF	5.92%
DETENTION	N/A	N/A
PERVIOUS	14,695 SF	31.66%
IMPERVIOUS	29,818 SF	63.02%
TOTAL	47,313 SF	100.00%

LOT COVERAGE - 21' BUFFER

BUILDING	118,893 SF	76.45%
DETENTION	35,920 SF	23.05%
PERVIOUS	N/A	N/A
IMPERVIOUS	155,813 SF	100.00%
TOTAL	158,768 SF	100.00%

LOT COVERAGE - TOTAL IN THE SITE

BUILDING	158,768 SF	24.40%
DETENTION	100,695 SF	15.48%
PERVIOUS	391,789 SF	60.22%
IMPERVIOUS	650,589 SF	100.00%
TOTAL	812,893 SF	100.00%

PARKING SUMMARY

	RATIO REQUIRED	SPACES REQ'D	SPACES PROVIDED
HOME DEPOT (TOTAL)	1 SP/250 SF	558	497
ACCESSIBLE		12	12
OUTPARCEL "A" (TOTAL) VARIES		81	71
RETAIL (7,100 SF)	1 SP/250 SF	28	28
RESTAURANT (5,240 SF)	1 SP/50 SF**	52	41
ACCESSIBLE		2	3
OUTPARCEL "B" (RETAIL) 1 SP/250 SF		18	47
ACCESSIBLE		1	2
OUTPARCEL "C" (REST.) 1 SP/50 SF**		28	61
ACCESSIBLE		1	2
GRAND TOTAL		665	676
ACCESSIBLE		18	19
BOYOLE		12	12
HOME DEPOT FRONT FIELD PROVIDED		447	SPACES
HOME DEPOT RATIO PROVIDED	1 SP/281 SF		
OVERALL RATIO PROVIDED	1 SP/250 SF		

**BASED ON 50% PATRON USE AREA

ZONING CLASSIFICATION

JURISDICTION	CITY OF MIAMI GARDENS
EXISTING ZONING	BU-2
REQUIRED ZONING	BU-2

SIGNAGE REGULATIONS

PICOL: 14'x45' MAX AT 15' MAX HT.
 WALL: 10% OF WALL AREA UP TO 15' WALL HT.
 1.5% INC/1 FOOT OVER 15' WALL HT.

LANDSCAPE REGULATIONS

14% REQUIRED BY CODE	91,085 SF
PER CHAPTER 18A	6,670 SF
TOTAL	97,755 SF

(SEE ALSO LANDSCAPE PLAN)

BUILDING SETBACKS

FRONT	20'
SIDE	15'
REAR	20'

The presence of groundwater should be anticipated on this project. Contractor's bid shall include consideration for addressing this issue.

Call 48 Hours before you dig
 It's the Low! 1-800-432-4770
 Sunlight State One Call of Florida, Inc.

SCALE AS NOTED DESIGNED BY DRAWN BY CHECKED BY	DESIGN ENGINEER: Peter J. Van Rens, P.E. FLORIDA REGISTRATION NUMBER: 55553	DATE:	NO.	DATE 08-11-07 M.T.H.	BY
PLAYA PLAZA CITY OF MIAMI GARDENS NW 27TH AVENUE MIAMI-DADE COUNTY FLORIDA			MASTER SITE DEVELOPMENT PLAN		
PROJECT NO. 047905000			SHEET NUMBER C-102		

RESTRICTIVE COVENANTS AND
EASEMENT AGREEMENT

Document prepared by and return to:
Ashley C. Stanley, Esq.
Hartman, Simons, Spielman & Wood, LLP
6400 Powers Ferry Road, Suite 400
Atlanta, Georgia 30339

RESTRICTIVE COVENANTS AND EASEMENT AGREEMENT

THIS RESTRICTIVE COVENANTS AND EASEMENT AGREEMENT (this "Agreement") is made and entered into as of the ____ day of _____, 2008, by and between **PLAYA PLAZA, LLC**, a Kentucky limited liability company, whose mailing address is Kaden Tower, 6th Floor, 6100 Dutchmans Lane, Louisville, Kentucky 40205, Attn: J. Mark Blieden ("Playa Plaza"), and **HOME DEPOT U.S.A., INC.**, a Delaware corporation, whose mailing address is 2455 Paces Ferry Road, Atlanta, Georgia 30339 ("Home Depot").

WITNESSETH:

WHEREAS, pursuant to that certain Special Warranty Deed of even date herewith, between Home Depot and Playa Plaza, and of record in Official Record Book _____, Page _____, of the Public Records of Miami-Dade County, Florida, Playa Plaza acquired from Home Depot fee simple title to those three (3) certain tracts or parcels of land containing approximately 1.6626 acres, 1.3773 acres, and 1.0853 acres, respectively (each an "Outparcel", and being shown on the Site Plan and referenced herein individually as **Outparcel "A"**, **Outparcel "B"** and **Outparcel "C"**, respectively) being more particularly described on **Exhibit A** attached hereto and made a part hereof, and being more particularly shown on the site plan attached hereto and made a part hereof as **Exhibit B** (the "Site Plan") (the Outparcels are collectively being referred to herein as the "**Playa Plaza Property**"); and

WHEREAS, Home Depot is the owner of that certain tract of land shown on **Exhibit C** attached hereto and made a part hereof, said property being contiguous to the Playa Plaza Property, and being hereinafter referred to as the "**Home Depot Property**" (the Playa Plaza Property and the Home Depot Property being referred to herein collectively as the "**Properties**" and each a "**Property**"); and

WHEREAS, Home Depot desires to impose certain restrictions on the Playa Plaza Property for the benefit of the Home Depot Property; and

WHEREAS, Home Depot has agreed to grant Playa Plaza certain easements for the benefit of the Playa Plaza Property and Playa Plaza has agreed to grant Home Depot certain easements for the benefit of the Home Depot Property; and

WHEREAS, the Home Depot Property is zoned BU-2, Special Business District, and the Playa Plaza Property is zoned BU-2, Special Business District; and

WHEREAS, the Director of Development Services for the City of Miami Gardens ("Director of Development Services") has joined into this Agreement for the purpose of confirming that the Properties at all times maintain sufficient parking to support the use and occupancy of such Properties; and

WHEREAS, the creation, use and maintenance of the easements and restrictions granted herein will be beneficial to the Properties.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid by each party hereto to the other (including, with respect to Playa Plaza, Home Depot's conveyance to it of the Playa Plaza Property), the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE I. COMPLIANCE WITH SITE PLAN

Section 1.01. Compliance with the Site Plan. Playa Plaza and Home Depot agree that the Playa Plaza Property and the Home Depot Property shall be developed, if at all, in substantial accordance with the Site Plan. Playa Plaza and Home Depot further agree that the Site Plan shall not be materially modified without the express written consent of the owners of the Playa Plaza Property, the Home Depot Property, and the Director of Development Services, provided that the Director finds that the modification would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or tend to provoke a nuisance, or be incompatible with the area concerned, when considering the necessity and reasonableness of the modification in relation to the present and future development of the area concerned.

Section 1.02 Parking Requirement. Playa Plaza and Home Depot also agree that should the Home Depot Property be developed before the Playa Plaza Property, an area within the Playa Plaza Property shall be set aside and improved with irrigation, landscaping and lighting to accommodate a minimum of sixty-one (61) paved parking spaces so as to allow the business on the Home Depot Property to fulfill its parking requirements.

Section 1.03 Certificate of Use and Occupancy. Upon completion of Home Depot's development, if at all, Home Depot agrees to obtain a Certificate of Use and Occupancy for the proposed store upon compliance with all terms and conditions as

established herein, the same subject to cancellation upon violation of any of the conditions.

ARTICLE II - GRANT OF EASEMENT

Section 2.01. Ingress and Egress Easement. Home Depot hereby grants to Playa Plaza for the benefit of the Playa Plaza Property, and for the use by Playa Plaza, its tenants and their respective employees, agents, independent contractors, customers, patrons, business invitees, contractors, mortgagees, personal representatives, successors and permitted assignees (the "**Playa Plaza Parties**") a nonexclusive, perpetual easement for ingress and egress by vehicular and pedestrian traffic upon, over and across those certain driveways located on the Home Depot Property designated herein and on the Site Plan as the Access Easement Area for purposes of accessing the public right of way, presently known as NW 27th Avenue (the "**Playa Plaza Access Easement Area**"). Playa Plaza hereby grants to Home Depot, its tenants and their respective employees, agents, independent contractors, customers, patrons, business invitees, contractors, mortgagees, personal representatives, successors and permitted assignees (the "**Home Depot Parties**") for the benefit of the Home Depot Property, a non-exclusive, perpetual easement for ingress and egress by vehicular and pedestrian traffic upon, over and across those certain driveways located on the Playa Plaza Property designated herein and on the Site Plan as the Access Easement Area (the "**Home Depot Access Easement Area**"). The Playa Plaza Access Easement Area and the Home Depot Access Easement Area are shown on the Site Plan and hereinafter to referred to as the "**Access Easement Area**". Upon request of the owner of the Home Depot Property, Playa Plaza hereby agrees to enter into any additional easement agreements or other documentation necessary to effectuate reciprocal access between the Playa Plaza Property, the Home Depot Property and the adjacent properties.

Section 2.02. Parking Easement. Home Depot and Playa Plaza each hereby grants and conveys, each to the other party, for the benefit of the Playa Plaza Property and the Home Depot Property, respectively, a non-exclusive, perpetual easement and right to use the parking areas on the Home Depot Property and the Playa Plaza Property for purposes of vehicular parking. Notwithstanding the foregoing easements, Home Depot and Playa Plaza shall each maintain on its respective Property self-contained parking and landscaped open space sufficient to comply with the Site Plan, provided, however, that Playa Plaza shall maintain sixty-one (61) paved parking spaces with irrigation, landscaping and lighting on the Playa Plaza Property that shall be counted toward such Home Depot parking requirement. Playa Plaza and Home Depot each hereby acknowledges and agrees that the foregoing easements for parking shall not apply or inure to the benefit of any other property other than the Home Depot Property and the Playa Plaza Property.

Section 2.03. Drainage Easement. Home Depot hereby grants to Playa Plaza, for the benefit of the Playa Plaza Property, a perpetual nonexclusive easement and right to drain, discharge and impound storm water from the Playa Plaza Property in, to, over,

under, and across the Home Depot Property (including, without limitation, the detention pond to be located thereon, the "**Detention Pond**", and, together with such other storm drainage lines and facilities, the "**Drainage Facilities**") in the location more particularly shown on the Site Plan (the "**Drainage Easement Area**").

Section 2.04. Utilities Easement. Home Depot and Playa Plaza, both as grantors, hereby grant, convey and declare to the other, as grantees, for the benefit of Playa Plaza and Home Depot and the Plaza Playa Property and the Home Depot Property, a non-exclusive, perpetual, reciprocal easement, right and privilege (the "**Utility Easement**") in favor of both parties and appurtenant to and running with the respective title to the Properties over, under and through each of the Properties for the purpose of installation, operation, flow, passage, use, maintenance, correction, repair, relocation, removal and replacement of utility lines (the "**Utility Lines**") across the Properties at such locations shown on the Site Plan as "Watermain" and "Sanitary Sewer" or such other locations as are mutually agreeable to the parties. The party exercising the Utility Easement granted herein shall be responsible for repairing any damage to the Properties resulting from such party's exercise of such Utility Easement. Each party as grantor of the Utility Easement hereunder shall be entitled, in its reasonable discretion, to (i) approve the location of the utilities located or constructed on its respective Property, and (ii) relocate from time to time such utilities located or constructed on its respective Property, provided such relocation does not interrupt nor diminish the capacity of such utility service.

Section 2.05. Lift Station Easement. Home Depot, as grantor, hereby grants, conveys and declares to Playa Plaza, as grantee, for the benefit of Playa Plaza and the Playa Plaza Property, a non-exclusive, perpetual, easement, right and privilege (the "**Lift Station Easement**") to enter upon and traverse the Home Depot Property for the sole purpose of accessing, constructing, maintaining, repairing, correcting and replacing from time to time a lift station for the mutual benefit of the parties (the "**Lift Station**") to be constructed by Playa Plaza on the northern edge of the Home Depot Property in the area shown on the Site Plan for the location of the Lift Station (the "**Lift Station Easement Area**"). Until such time as Home Depot assumes the maintenance obligations for the Lift Station as set forth below, the Lift Station shall be kept and maintained by Playa Plaza (i) in good condition and repair, and (ii) in compliance with all applicable laws, rules, regulations and ordinances. Beginning on the later of (a) the date that Home Depot opens for business, or (b) the date that a qualified inspector certifies that the Lift Station is in good working order and that all maintenance for the Lift Station is current, the Lift Station shall be kept and maintained by Home Depot (i) in good condition and repair, and (ii) in compliance with all applicable laws, rules, regulations and ordinances, and (iii) the Lift Station Easement shall terminate but the Playa Plaza Property shall continue to be benefited and served by the Lift Station. The party maintaining the Lift Station at any given time shall be responsible for payment of any utility bills related to the Lift Station, subject to reimbursement by each Outparcel owner pursuant to the last sentence of Section 3.02.

Section 2.06. Dedication. The parties agree to cooperate and execute all necessary documentation to cause the Utility Lines, Drainage Facilities and/or Lift Station to be publicly dedicated to such utility company or governmental agency that is responsible for supplying such utility service to the Home Depot Property and the Playa Plaza Property. Home Depot and Playa Plaza acknowledge and agree that, any provision of this Agreement to the contrary notwithstanding, upon giving effect to such public dedication and provided that each of the Home Depot Property and the Playa Plaza Property will continue to be benefited and served by the dedicated Utility Lines, Drainage Facilities and/or Lift Station, as applicable, the easement set forth herein and all rights and obligations of Home Depot and Playa Plaza set forth herein with respect to such dedicated Utility Lines, Drainage Facilities and/or Lift Station shall be superseded by the public dedication and acceptance thereof by the applicable governmental authority and any such easement granted herein shall automatically terminate and cease to be of any further force and effect.

ARTICLE III - MAINTENANCE RESPONSIBILITIES

Section 3.01. Access Easement Maintenance Obligations. Until such time as Home Depot opens for business, the Access Easement Area shall be kept and maintained by Playa Plaza (i) in good condition and repair, and (ii) in compliance with all applicable laws, rules, regulations and ordinances. Beginning on the date that Home Depot opens for business, the Access Easement Area shall be kept and maintained by Home Depot (i) in good condition and repair, and (ii) in compliance with all applicable laws, rules, regulations and ordinances. Thereafter, on or before January 1 of each calendar year, Playa Plaza shall deliver to Home Depot Five Hundred and No/100 Dollars (\$500.00) per acre of the Playa Plaza Property (the "Access Easement Maintenance Fee"), as Playa Plaza's contribution toward the cost of Home Depot's maintenance of the Access Easement Area. Thereafter, on the second (2nd) anniversary of the first January 1st on which the Access Easement Maintenance Fee is due and every two (2) years thereafter, the Access Easement Maintenance Fee for the Playa Plaza Property shall be increased to 5% of the Access Easement Maintenance Fee paid during the previous two (2) year period.

Section 3.02. Drainage and Lift Station Easement Maintenance Obligations. Until such time as Home Depot opens for business, the Drainage Facilities, Drainage Easement Area, the Lift Station and the Lift Station Easement Area shall be kept and maintained by Playa Plaza (i) in good condition and repair, and (ii) in compliance with all applicable laws, rules, regulations and ordinances. Beginning on the date that Home Depot opens for business, the Drainage Facilities, the Drainage Easement Area, the Lift Station and the Lift Station Easement Area shall be kept and maintained by Home Depot (i) in good condition and repair, and (ii) in compliance with all applicable laws, rules, regulations and ordinances. Thereafter, on or before January 1 of each calendar year, Playa Plaza shall deliver to Home Depot Seven Hundred Fifty and No/100 Dollars (\$750.00) per acre of the Playa Plaza Property (the "Drainage Easement and Lift Station Maintenance Fee"), as Playa Plaza's contribution toward the cost of Home

Depot's maintenance of the Drainage Easement Area, the Lift Station Easement Area and the Lift Station; provided, however, that in no event shall the Drainage Easement and Lift Station Maintenance Fee for each Outparcel in any calendar year be less than One Thousand and No/100 Dollars (\$1,000.00). Thereafter, on the second (2nd) anniversary of the first January 1st on which the Drainage Easement and Lift Station Maintenance Fee is due and every two (2) years thereafter, the Drainage Easement and Lift Station Maintenance Fee for the Playa Plaza Property shall be increased to 5% of the Drainage Easement and Lift Station Maintenance Fee paid during the previous two (2) year period. In addition to the Drainage Easement and Lift Station Maintenance Fee set forth in this Section 3.02, during the time that Home Depot is responsible for the maintenance of the Lift Station, each Outparcel owner shall be responsible for a pro-rata portion of utility bills, as well as major maintenance or replacement of the Lift Station, based on usage by each Outparcel, as determined in Home Depot's reasonable discretion.

Section 3.03. Damage to Home Depot Property. Notwithstanding any other provisions hereof, if Playa Plaza or any of the other Playa Plaza Parties damages the Access Easement Area, the Drainage Easement Area or the Lift Station Easement Area, Playa Plaza shall reimburse Home Depot for the entire costs and expenses incurred by Home Depot in connection with the repair and restoration of such damage within thirty (30) days after receipt of an invoice from Home Depot, and in the event Playa Plaza fails to make such payment within such 30-day period, Playa Plaza shall be required to pay interest on the amount due at the lesser of (a) the maximum rate allowed by law or (b) fifteen percent (15%) per annum until payment is made.

Section 3.04. Indemnity and Insurance. Playa Plaza agrees to indemnify, defend, protect, and hold harmless Home Depot from any and all suits, claims, damages, and costs (including reasonable attorney's fees and court costs) (collectively, the "Easement Claims") arising from the use of the easements granted herein in favor of Playa Plaza by Playa Plaza and the Playa Plaza Parties. Playa Plaza shall maintain at all times at its sole cost such policies of general liability insurance necessary to insure against the Easement Claims in an amount of at least \$2,000,000.00 per occurrence, and \$5,000,000.00 in the aggregate. Home Depot shall be added to any such policies as an additional insured. Upon written request sent by Home Depot, Playa Plaza shall provide within ten (10) business days evidence of the existence of the policies of insurance required by this Section.

ARTICLE IV – PLAYA PLAZA PROPERTY COVENANTS

Section 4.01. Restrictions on Playa Plaza Property. The Playa Plaza Property shall be owned and used subject to the following restrictive covenants, which shall run with the land and be binding upon Playa Plaza and each of the other Playa Plaza Parties and any other person or entity presently or in the future having any interest in the Playa Plaza Property:

(a) No more than one (1) building or other structure shall be located on each Outparcel at any time. No building or structure of any kind located on the Playa Plaza Property shall exceed twenty-five (25) feet in height (including parapet walls or any other projections of any kind other than rooftop mechanical equipment). Any and all buildings or other structures on the Playa Plaza Property shall only be located within the area designated on the Site Plan as "Permissible Building Area."

(b) Any building or structure on the Playa Plaza Property shall, where reasonably possible, orient its main entrance away from the parking areas located on the Home Depot Property.

(c) Any construction on the Playa Plaza Property shall be conducted in a manner, which will limit, to the maximum extent reasonably practicable, any interference with the operation of the Home Depot Property. Staging areas for any construction on the Playa Plaza Property shall be located within the Playa Plaza Property, and at the request of Home Depot, any such areas shall be fenced or otherwise screened during construction.

(d) Reader board signs shall not be permitted on the Playa Plaza Property. Each of Outparcel B and Outparcel C may have, subject to the following provisions, no more than one free-standing, permanent sign structure on each of said Outparcels in compliance with the plans approved pursuant to subparagraph (i) below, provided that the permitting, placement and maintenance of such signs does not affect or inhibit the permitting, installation and maintenance of (i) a pylon sign having at least 280 square feet of fascia for the benefit of the Home Depot Parcel and Outparcel A on either Outparcel A or the Home Depot Parcel and (ii) the building signage for the Home Depot Parcel and Outparcel A. Home Depot shall have the top panel of said pylon sign, the size of which shall be the greater of (i) 196 square feet or (ii) 70% of the total sign fascia. No other freestanding, permanent sign structures shall be permitted on Outparcel A other than the aforesaid pylon sign.

(e) Self contained parking sufficient to comply with applicable rules and regulations of applicable governmental authorities shall be provided by the owner of each Outparcel with respect to each Outparcel at all times; provided, however, that in no event shall any Outparcel contain less than (i) ten (10) parking spaces per one thousand (1,000) square feet of improvements used for purposes of a restaurant, (ii) fifteen (15) parking spaces per one thousand (1,000) square feet of improvements used for purposes of a restaurant in which alcohol is being served, or (iii) five (5) parking spaces per one thousand (1,000) square feet of improvements used for any other purpose unless otherwise approved by the owner of the Home Depot Property and the City of Miami Gardens.

(f) No portion of the Playa Plaza Property shall be used for a business or use which creates strong, unusual or offensive odors, fumes, dust or vapors; is a

public or private nuisance; emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness; or creates unusual fire, explosive or other hazards.

(g) No portion of the Playa Plaza Property may be leased, used or occupied as or for a funeral parlor; flea market; discotheque; skating rink; the sale or distribution of alcoholic beverages (except as incidental to the business being operated on the Property); bar (a bar being defined for purposes of this Agreement as an establishment offering the sale of alcoholic beverages for consumption on the premises where such sales are not incidental to the sale of food for on-premises consumption in a bona fide fast food restaurant); unsupervised game room or amusement arcade; movie theater; automobile dealership or repair shop; automotive repair shop which replaces automotive engines or transmissions; billiard parlor; bowling alley; industrial manufacturing; truck stop; adult bookstore or establishment selling, exhibiting or distributing pornographic or obscene materials; massage parlor; so-called "head shop"; body and fender shop; off-track betting parlor; health spa; "social encounter" type restaurant; or any promotion, entertainment, or amusement activities such as traveling carnivals, fairs, auctions, shows, kiosks, booths for the sale of fire works, sales by transient merchants utilizing vehicles or booths, or other promotions of any nature. The sale of alcoholic beverages shall be deemed incidental if the gross sales derived from such alcoholic beverages are less than thirty percent (30%) of the total gross sales derived from the business operated on the Playa Plaza Property.

(h) No portion of the Playa Plaza Property shall be used for the sale, display, lease or distribution of lumber, hardware items, plumbing supplies, electrical supplies, paint, wallpaper and wall coverings, hard and soft flooring (including, without limitation, tile, wood flooring, rugs and carpeting), interior design services, kitchens or bathrooms or components thereof (including, without limitation, tubs, sinks, faucets, mirrors, cabinets, showers, vanities, countertops and related hardware), indoor and outdoor lighting, window treatments (including, without limitation, draperies, curtains and blinds), cabinets, siding, ceiling fans, gardening supplies, nursery products, pool supplies, barbecue or gas grills, patio furniture and patio accessories, non-patio furniture (including, without limitation, home entertainment centers), kitchen appliances (including, without limitation, countertop small appliances and cookware), closet organizing systems, pictures or picture framing, or Christmas trees.

(i) Prior to constructing any buildings, signage, or other improvements on the Playa Plaza Property, Playa Plaza shall deliver to the owner of the Home Depot Property (or, if there be more than one (1) owner of the Home Depot Property, then the owner of the largest area of the Home Depot Property) a grading plan, utility plan, site plan, exterior building elevations, drainage plan, signage plan and landscape plan for the Playa Plaza Property (collectively, the "Plans"). The Plans shall be subject to the prior approval by the owner of the Home Depot Property, in such Home Depot's sole discretion, but which discretion

shall be exercised in good faith and not for the purpose of preventing Playa Plaza's development of the Playa Plaza Property in such a way that is commercially reasonable and in compliance with all of the restrictions set forth in this Agreement and any applicable laws, rules, permits or regulations.

Section 4.02. Security Services for Playa Plaza Property.

Playa Plaza shall, at Playa Plaza's sole cost and expense, implement, keep and maintain at the Playa Plaza Property security services comparable as to coverage, control and responsiveness to that which would be obtained by prudent owners or operators of like enterprises in the general locale of Miami, Florida. Playa Plaza acknowledges and agrees that Home Depot shall have no responsibility or obligation whatsoever to provide any security or crime prevention services for the benefit of the Playa Plaza Property and Playa Plaza hereby releases and agrees to hold harmless Home Depot from and against any and all liability or loss to Playa Plaza, its agents, employees, contractors or invitees, arising out of or in any way connected with any trespass, criminal activity, damage or injury to persons or property at the Playa Plaza Property or the Home Depot Property.

ARTICLE V - MISCELLANEOUS PROVISIONS

Section 5.01. Time of the Essence. Time is of the essence of this Agreement.

Section 5.02. Amendment. Playa Plaza and Home Depot hereby agree that, except to the extent otherwise set forth herein, only upon the written consent of the parties hereto may this Agreement be amended, modified or terminated, or may any of the easements or easement areas be relocated, changed, altered, diminished or expanded.

Section 5.03. Waiver. Each and every covenant and agreement contained herein shall be for any and all purposes hereof construed as separate and independent and the breach of any covenant by either party shall not release or discharge such party from its obligations hereunder. No delay or omission by either party to exercise its rights accruing upon any noncompliance or failure of performance by either party shall impair any such right or be construed to be a waiver thereof. A waiver by either party hereto of any of the covenants, conditions or agreements to be performed by any other party under this Agreement shall not be construed to be a waiver of any succeeding breach or of any other covenants, conditions or agreements contained herein.

Section 5.04. Severability. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any then applicable law and shall be limited to the extent necessary to render the real covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person, entity or circumstance shall be held to be invalid, illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or

agreement to persons, entities or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

Section 5.05. Binding Effect; Appurtenance. This Agreement shall be binding upon and inure to the benefit of Playa Plaza and Home Depot and their respective successors and assigns, personal representatives, mortgagees or lessees and others presently or in the future having any interest in the Playa Plaza Property or the Home Depot Property, including successors in title. Notwithstanding the foregoing, each of Playa Plaza and Home Depot (each, an "Owner") shall be responsible only for the obligations, indemnities, duties, liabilities and responsibilities set forth in this Agreement that accrue during the period of time during which such Owner holds fee simple title to its Property or any portion thereof. Upon conveyance of an Owner's Property or any portion thereof, the Owner making such conveyance shall be relieved from the obligations, duties, indemnities and responsibilities hereunder arising from and after the date of such conveyance as to such Property, or portion thereof conveyed, and the successor Owner shall become obligated hereunder for all matters arising from and after the date of conveyance. The rights, privileges and easements granted and conveyed hereunder shall exist for the benefit of, and be a burden upon, the Home Depot Property and the Playa Plaza Property and shall run with title to, and be appurtenant to, such Properties.

Section 5.06. Notices. All notices, requests, demands or other communications hereunder shall be in writing and shall be delivered by personal delivery, overnight mail or delivery service, facsimile (provided that a copy thereof shall be sent concurrently to the intended recipient by one of the other methods provided herein), or United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Playa Plaza:

Playa Plaza, LLC
Kaden Tower, 6th Floor
6100 Dutchmans Lane
Louisville, Kentucky 40205
Attention: J. Mark Blieden
Telephone Number: (502) 456-1999
Facsimile Number: (502) 451-6019

If to Home Depot:

Home Depot U.S.A., Inc.
2455 Paces Ferry Road, C-20
Atlanta, Georgia 30339
Attention: Southeast Divisional Real Estate Corporate
Counsel
Telephone Number: (770)384-2908
Facsimile Number: (770) 384-3042

With a copy to:

Hartman, Simons, Spielman & Wood, LLP
6400 Powers Ferry Road, NW, Suite 400

Atlanta, Georgia 30339
Attention: Ashley C. Stanley, Esq.
Facsimile Number: (770) 858-1085

or to such other address as either party may from time to time designate by notice in writing to the other party. Any such notice, request, demand or communication shall be deemed to have been given on the date of mailing. The refusal to accept delivery by either party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this Section shall constitute delivery.

Section 5.07. Remedies. In the event an Owner fails to perform the maintenance, repair or other work required of such Owner by this Agreement, or fails to perform the work in accordance with the requirements of this Agreement, or otherwise breaches the terms of this Agreement, the non-defaulting Owner may notify the defaulting Owner thereof and shall specify the deficiencies in the work or the breach. If such deficiencies are not corrected, or the breach not cured, within thirty (30) days after receipt of such notice, then such non-defaulting Owner shall have the right to correct such deficiencies or perform the work (even if such work must be undertaken on the defaulting Owner's Property) or cure the breach, and recover all actual costs and expenses related thereto from the defaulting Owner. Notwithstanding the foregoing, in the event that the failure to perform the work, or failure to perform the work in the manner required in this Agreement, or the breach of this Agreement, creates an imminent danger of damage to persons or properties, or jeopardizes the continuance of business operations on any Property, no notice shall be required prior to the non-defaulting Owner commencing such work or commencing a cure of the breach. Any monetary amounts due and payable to the non-defaulting Owner pursuant to this Agreement shall be paid within ten (10) days from the date the defaulting Owner is notified of the amounts due. The failure to pay any amounts due pursuant to this Agreement shall not entitle such non-defaulting Owner to file a lien or claim of lien against the Property owned by the defaulting Owner.

Section 5.08. Covenants Run With the Land. All the covenants, conditions, restrictions, easements, terms and provisions hereof are and shall be deemed to be covenants running with each Property and shall burden and benefit such Property as described herein and, with respect to such Property, the Owner thereof, the holders or owners of any mortgage, indenture, deed of trust or deed to secure debt encumbering the Property, any purchaser of the Property at a foreclosure sale, any other person or entity acquiring any right, title or interest in the Property and their respective heirs, executors, administrators, representatives, lessees, successors and assigns, and others presently or in the future having any interest in the Property.

Section 5.09. Continuation Notwithstanding Breach. It is expressly agreed that no breach of this Agreement shall entitle either party hereto to cancel, rescind or otherwise terminate this Agreement. Such limitation, however, shall not affect in any

manner any other rights or remedies which such party may have hereunder by reason of such breach.

Section 5.10. Entire Agreement. This Agreement and the Exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Agreement and the Exhibits hereto.

Section 5.11. Construction. The provisions of this Agreement shall be construed as a whole according to their common meaning and not strictly for or against either party hereto.

Section 5.12. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida with venue lying in Miami-Dade County, Florida without regard to conflicts laws or choice of law rules thereof.

Section 5.13. Estoppel Certificates. Upon the request of either party hereto, the other party shall issue to any party designated by the requesting party an appropriate certificate certifying whether the party to whom the request is made knows of any default under this Agreement or of any assignment, modification or amendment to this Agreement (and the nature and extent of any such default or other known matter) and whether, to that party's knowledge, this Agreement is in full force and effect. The certificate may be relied upon by a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary and shall constitute a waiver of any claim by the certifying party based upon facts contrary to the certificate of which that party had knowledge at the time of making the certificate. The certificate shall not subject the party furnishing the certificate to any liability for any inaccurate statement which such party in good faith believed was correct when made or any obligation to correct or disclose any change in the information certified.

Section 5.14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

Section 5.15. Recording. This Declaration shall be filed of record in the Public Records of Miami-Dade County, Florida, at the cost of Home Depot and Playa Plaza.

Section 5.16 Effective Period. This Agreement shall be in effect for a period of thirty (30) years from the date of recordation in the Public Records of Miami-Dade County, Florida, after which time it shall be automatically extended for periods of ten (10) years, unless released in writing by the then owners of the Playa Plaza and Home Depot Properties, and the Director of Development Services. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit

or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination, and, provided further, that, except as otherwise provided in this Agreement, the easements and the rights and duties related thereto as provided in Section 2 and Section 3 of this Agreement shall continue in effect in perpetuity as to those easements actually in use at the time of the termination of this Agreement until such time any such easement has been affirmatively abandoned pursuant to a document duly executed by the Owner of the Property benefited by such easement and duly recorded in the public records of Miami-Dade County, Florida or has been deemed to have lapsed through non-use or abandonment pursuant to a final, non-appealable order entered by a court having jurisdiction over the Properties.

Section 5.17. Attorneys Fees. Enforcement of this Agreement shall be by action against any parties or person violating, or attempting to violate, any of the covenants, conditions, restrictions, easements, terms and provisions of this Agreement. The prevailing party in any action or suit pertaining to or arising out of this Agreement shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of the prevailing party's attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both, to the parties to this Agreement.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

PLAYA PLAZA, LLC, a Kentucky
limited liability company

By: 

Name: J. MARK BLIEDEN

Title: MANAGER

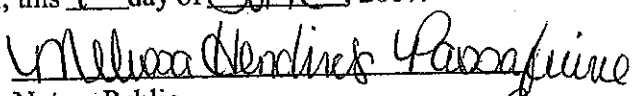
[CORPORATE SEAL]

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

I HEREBY CERTIFY that on this day, before me, the undersigned notary public, duly authorized in the State and County aforesaid to take acknowledgments, personally appeared J. Mark Blieden, the Manager of Playa Plaza, LLC, a Kentucky limited liability company, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged the execution thereof to be his free act and deed as such duly authorized representative for the uses and purposes therein expressed, and the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal, this 4th day of June, 2007.


Notary Public

Printed name Melissa Hendricks Passafiume

My Commission expires: 6/28/2010

(NOTARY SEAL)

HOME DEPOT U.S.A., INC., a
Delaware corporation

By: *Thomas K. Anderson*

Name: Thomas K. Anderson

Title: Corporate Counsel

[CORPORATE SEAL]



STATE OF GEORGIA

COUNTY OF COBB

I HEREBY CERTIFY that on this day, before me, the undersigned notary public, duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Thomas K. Anderson, the Corporate Counsel of Home Depot U.S.A., Inc., a Delaware corporation, to me personally known to be the person described in and who executed the foregoing instrument or has produced _____ as identification and who did take an oath, and acknowledged the execution thereof to be his free act and deed as such duly authorized representative for the uses and purposes therein expressed, and the said instrument is the act and deed of said corporation.

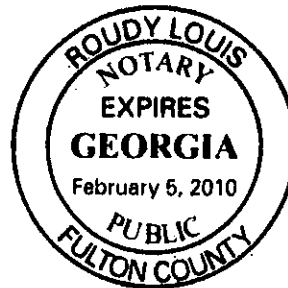
WITNESS my hand and official seal at Atlanta, Georgia, this 6th day of June, 2007.

Roudy Louis
Notary Public

Printed name Roudy Louis

My Commission expires: Feb 5, 2010

(NOTARY SEAL)



ACCEPTANCE

THE CITY OF MIAMI GARDENS hereby accepts this Restrictive Covenants and Easement Agreement.

Jay Marder, Director of Development Services
Date: _____

Approved for Legal Form and
Sufficiency:

Sonja K. Dickens, City Attorney

863262_7.DOC

EXHIBIT "A"

Playa Plaza Property

Outparcel A

A PORTION OF TRACTS 35 AND 36 OF "MIAMI GARDENS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE SOUTH 02°46'26" EAST ON THE WEST LINE OF SAID SECTION 3 FOR 1461.02 FEET; THENCE NORTH 87°14'45" EAST 77.00 FEET TO THE INTERSECTION WITH A LINE 11.00 FEET EAST OF AND PARALLEL WITH THE EAST RIGHT-OF-WAY LINE OF NORTHWEST 27TH AVENUE (STATE ROAD S-817) (UNITY AVENUE) AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°14'45" EAST 269.31 FEET; THENCE SOUTH 02°45'47" EAST 268.93 FEET; THENCE SOUTH 87°14'13" WEST 269.26 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED PARALLEL LINE; THENCE NORTH 02°46'26" WEST ON SAID PARALLEL LINE 268.97 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF MIAMI GARDENS, MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 72,422 SQUARE FEET, 1.6626 ACRES.

SAID PARCEL OF LAND BEING FURTHER DESCRIBED AS TRACT "B" ON THAT CERTAIN FINAL PLAT FOR OF "HOME DEPOT PRO PLAYER" DATED OCTOBER 30, 2007, PREPARED BY PULICE LAND SURVEYORS, INC., RECORDED IN PLAT BOOK 167 PAGE 3 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Outparcel B

A PORTION OF TRACTS 35, 36, 37 AND 38 OF "MIAMI GARDENS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE SOUTH 02°46'26" EAST ON THE WEST LINE OF SAID SECTION 3 FOR 1790.00 FEET; THENCE NORTH 87°14'13" EAST 77.00 FEET TO THE INTERSECTION WITH A LINE 11.00 FEET EAST OF AND PARALLEL WITH THE EAST RIGHT-OF-WAY LINE OF NORTHWEST 27TH AVENUE (STATE ROAD S-817) (UNITY AVENUE) AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°14'13" EAST 269.24 FEET; THENCE SOUTH 02°45'47" EAST 222.79 FEET; THENCE SOUTH 87°14'13" WEST 271.80 FEET; THENCE NORTH 09°44'10" EAST 11.97 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED PARALLEL LINE; THENCE NORTH 02°46'26" WEST ON SAID PARALLEL LINE 211.10 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF MIAMI GARDENS, MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 59,995 SQUARE FEET, 1.3773 ACRES.

SAID PARCEL OF LAND BEING FURTHER DESCRIBED AS TRACT "C" ON THAT CERTAIN FINAL PLAT FOR OF "HOME DEPOT PRO PLAYER" DATED OCTOBER 30, 2007, PREPARED BY PULICE LAND SURVEYORS, INC., RECORDED IN PLAT BOOK 167 PAGE 3 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

96

Outparcel C

A PORTION OF TRACTS 37 AND 38 OF "MIAMI GARDENS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE SOUTH 02°46'26" EAST ON THE WEST LINE OF SAID SECTION 3 FOR 2182.32 FEET; THENCE NORTH 87°14'13" EAST 66.00 FEET TO INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF NORTHWEST 27TH AVENUE (STATE ROAD S-817) (UNITY AVENUE) AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°14'13" EAST 280.17 FEET; THENCE NORTH 02°45'47" WEST 169.33 FEET; THENCE SOUTH 87°14'13" WEST 271.80 FEET; THENCE SOUTH 09°44'10" WEST 38.81 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE; THENCE SOUTH 02°46'26" EAST ON SAID EAST RIGHT-OF-WAY LINE 131.44 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF MIAMI GARDENS, MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 47,285 SQUARE FEET, 1.0855 ACRES.

SAID PARCEL OF LAND BEING FURTHER DESCRIBED AS TRACT "D" ON THAT CERTAIN FINAL PLAT FOR OF "HOME DEPOT PRO PLAYER" DATED OCTOBER 30, 2007, PREPARED BY PULICE LAND SURVEYORS, INC., RECORDED IN PLAT BOOK 167 PAGE 3 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.



[illegible]

EXHIBIT "B" Page 3 of 6

Drawing name: \\11050000\CADD\11050000\Drawings\Exhibit_B-15-07.dwg EXHIBIT May 16, 2007 2:21pm by: kerk.barnett

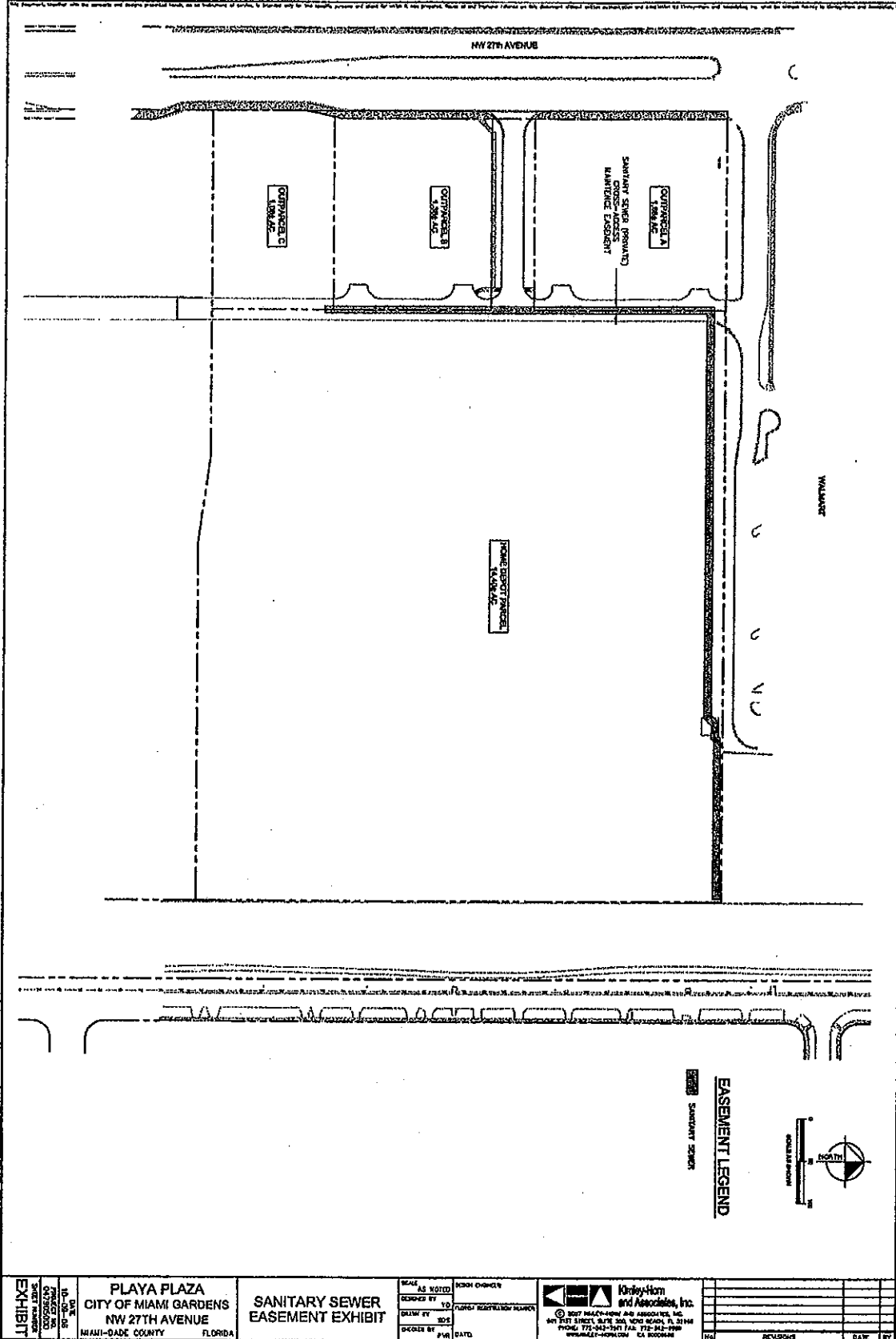
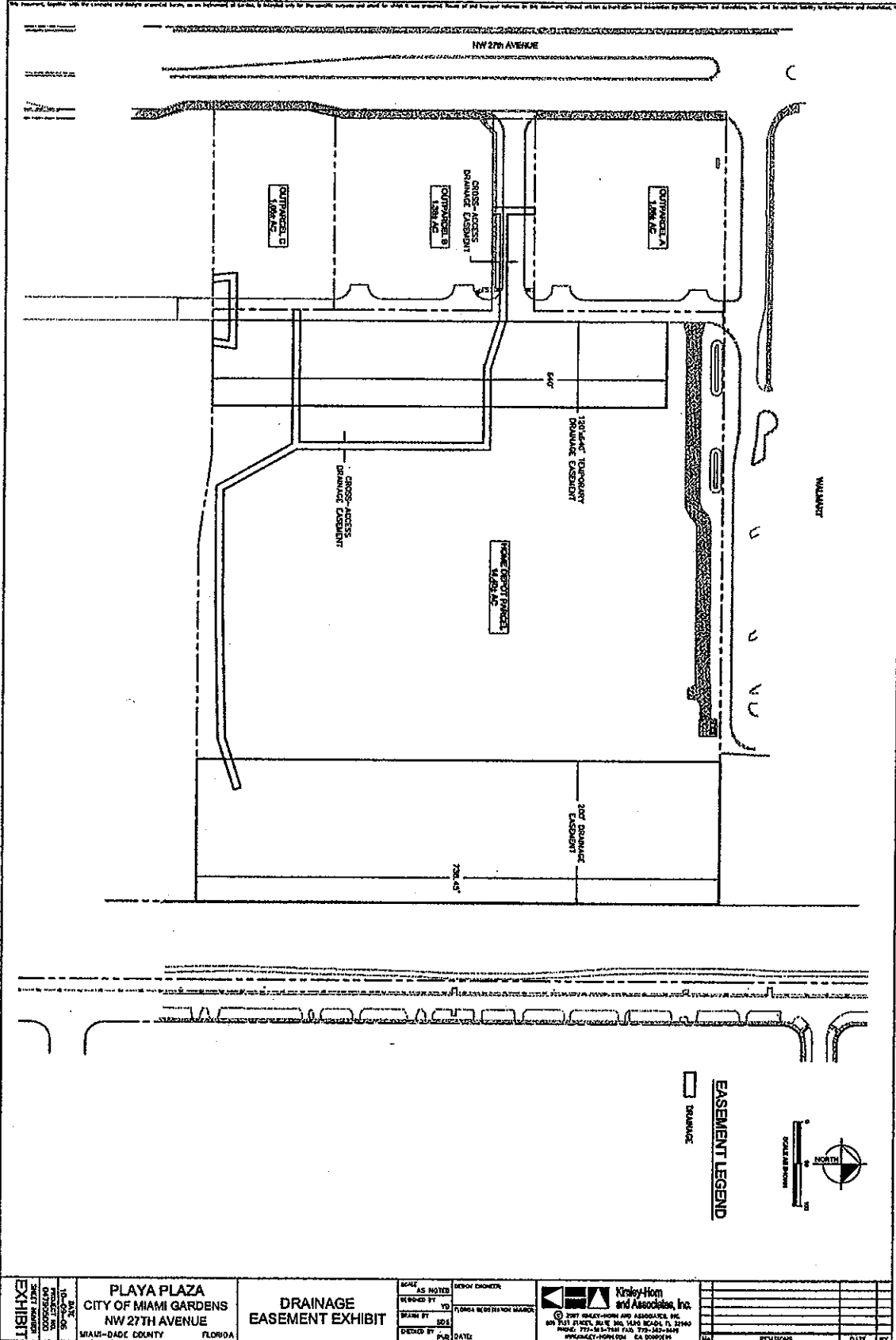


EXHIBIT "B" Page 4 of 6

Drawing number: 16\47905000\CAD\1600015\Exhibit B-15-07.dwg DATE: May 18, 2007 1:59pm by: krc/borrelli




DATE 10/26/2007 PROJECT NO. 07-0353-000 SHEET NUMBER 01	PLAYA PLAZA CITY OF MIAMI GARDENS NW 27TH AVENUE MIAMI-DADE COUNTY FLORIDA	DRAINAGE EASEMENT EXHIBIT	SCALE AS NOTED DESIGNED BY YD DRAWN BY SDE CHECKED BY DATE	DESIGN ENGINEER FLORIDA REGISTERED NO. 56800	 Kirley-Horn and Associates, Inc. 2007 KIRLEY-HORN AND ASSOCIATES, INC. 801 78TH STREET, SUITE 200, MIAMI BEACH, FL 33140 PHONE: 772-861-1111 FAX: 772-861-1111 WWW.KIRLEY-HORN.COM CA 00000000																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		</
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EXHIBIT "B" Page 5 of 6

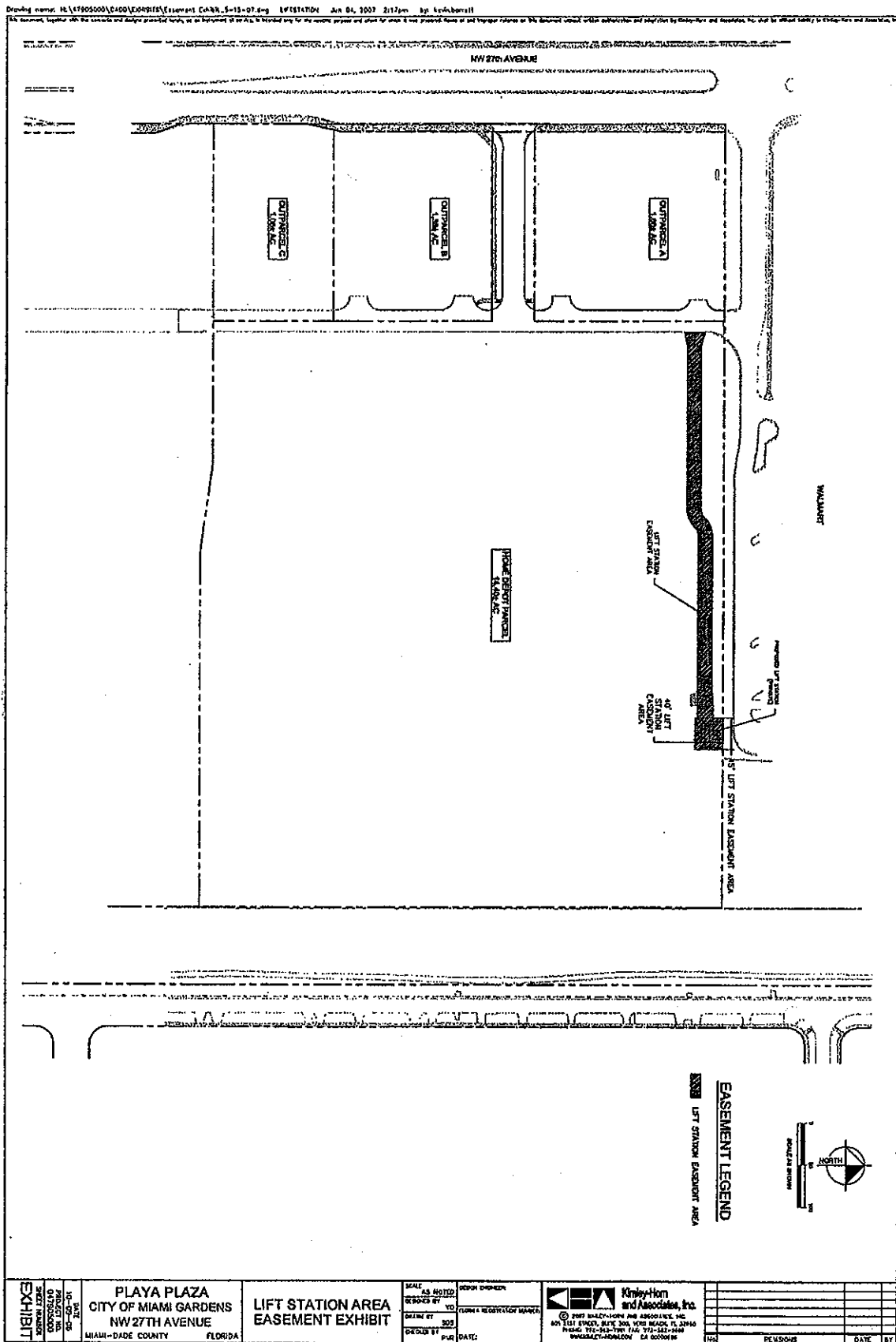
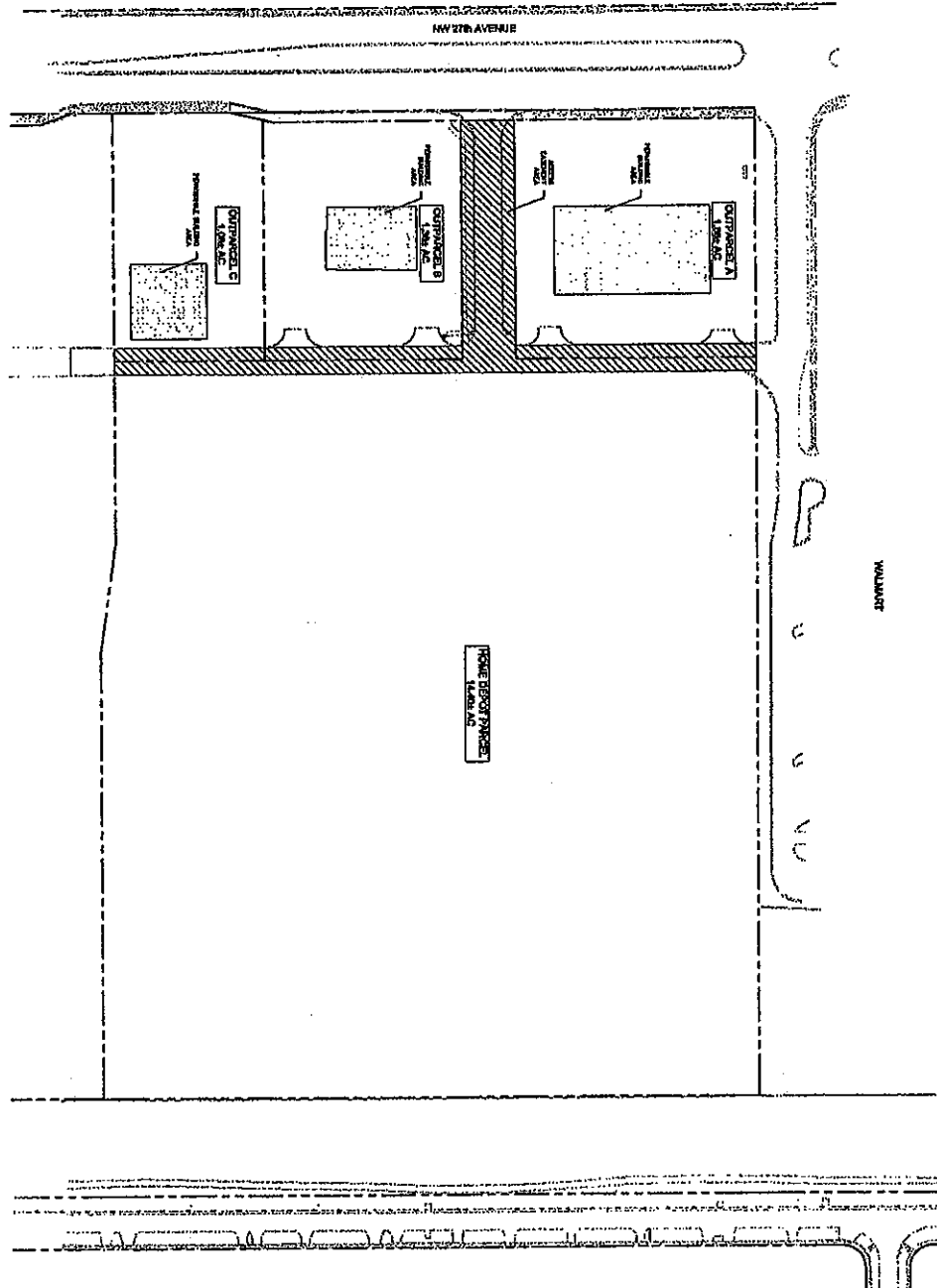


EXHIBIT "B" Page 6 of 6

Drawing name: H:\14700000\CD\001\OUTPARCEL EXHIBIT 15-07.dwg C102 Jan 01, 2007 2:15pm by kckckckck

All dimensions, together with the proposed and existing lot lines, are as shown on the plan. It is the responsibility of the owner to verify the accuracy of the information shown on this drawing. The owner shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The owner shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The owner shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.



LEGEND

PERMISSIBLE BUILDING AREA

ACCESS EXHIBIT AREA

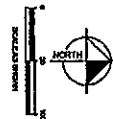


EXHIBIT	PLAYA PLAZA	OUTPARCEL	SCALE	AS NOTED	DESIGNER	Kinley-Horn and Associates, Inc. 3001 KALETH RD. SUITE 1000 MIAMI, FL 33156 PHONE: 772-542-7000 FAX: 772-542-7001 WWW.KINLEY-HORN.COM EA 00000000		
	CITY OF MIAMI GARDENS	PERMISSIBLE BUILDING	DESIGNED BY	TO	PLANNED POSITIONING			
	NW 27TH AVENUE	AREA EXHIBIT	DATE	BY				
	MIAMI-DADE COUNTY	FLORIDA	DATE	BY				

EXHIBIT "C"

Home Depot Property

A PORTION OF TRACTS 33, 34, 35, 38, 39 AND 40 OF "MIAMI GARDENS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 52 SOUTH, RANGE 41 EAST; THENCE SOUTH 02°46'26" EAST ON THE WEST LINE OF SAID SECTION 3 FOR 1790.00 FEET; THENCE NORTH 87°14'13" EAST 77.00 FEET TO THE INTERSECTION WITH A LINE 11.00 FEET EAST OF AND PARALLEL WITH THE EAST RIGHT-OF-WAY LINE OF NORTHWEST 27TH AVENUE (STATE ROAD S-817) (UNITY AVENUE) AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 87°14'13" EAST 269.24 FEET; THENCE SOUTH 02°45'47" EAST 392.12 FEET; THENCE NORTH 87°14'13" EAST 204.25 FEET; THENCE SOUTH 84°47'25" EAST 125.98 FEET; THENCE NORTH 87°14'37" EAST 504.45 FEET; THENCE NORTH 02°45'15" WEST 738.45 FEET; THENCE SOUTH 87°14'45" WEST 833.58 FEET; THENCE SOUTH 02°45'47" EAST 268.93 FEET; THENCE SOUTH 87°14'13" WEST 269.26 FEET TO THE INTERSECTION WITH THE AFOREMENTIONED PARALLEL LINE; THENCE SOUTH 02°46'26" EAST ON SAID PARALLEL LINE 60.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF MIAMI GARDENS, MIAMI-DADE COUNTY, FLORIDA AND CONTAINING 627,033 SQUARE FEET, 14.3947 ACRES.

SAID PARCEL OF LAND BEING FURTHER DESCRIBED AS TRACT "A" ON THAT CERTAIN FINAL PLAT FOR OF "HOME DEPOT PRO PLAYER" DATED OCTOBER 30, 2007, PREPARED BY PULICE LAND SURVEYORS, INC., RECORDED IN PLAT BOOK 167 PAGE 3 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SUBMITTED PLANS

TRANSMITTAL CONFIRMATION

Jacquelyn Gardner

From: Jacquelyn Gardner
Sent: Thursday, February 21, 2008 12:51 PM
To: 'peter.vanrens@kimley-horn.com'
Subject: Draft Recommendation

Peter J. Van Rens,

Attached is the draft Recommendation for Playa Plaza. If you have any questions please feel free to contact the Planning & Zoning Department.

Jacquelyn Gardner

Administrative Assistant

City of Miami Gardens

Department of Planning & Zoning

Tel: (305) 622-8023

Fax: (305) 622-8857

jgardner@miamigardens-fl.gov
